



आयकरअपीलीयअधिकरण,राजकोट न्यायपीठ,राजकोट।
IN THE INCOME TAX APPELLATE TRIBUNAL, "SMC"
RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

आयकरअपीलसं./ITA No. 12/RJT/2026
(निर्धारणवर्ष/Assessment Year: (2012-13))

Manishkumar Jadulal Thakkar Rajin Infrastructure Shivam Park SN 3, Corner 150ft Ring Road, Nr. Nagrik Bank, Nr. Raiya Telephone Exchange, Rajkot – 360005	Vs.	The ITO, wd-(1)(1) New Aayakar Bhavan, Vatiaka, Rajkot-360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ADBPT5491J		
(अपीलार्थी/Assessee)		(प्रत्यर्थी/Respondent)

Assessee by : Shri Suresh Tejwani, Ld. AR
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR

Date of Hearing : 15/01/2026
Date of Pronouncement : 16/01/2026

ORDER

Per, Dr. Arjun Lal Saini, AM:

The present appeal has been filed by the Assessee, against the order passed by the Learned Commissioner of Income Tax (Appeal), National Faceless Appeal, Centre (NFAC), Delhi [hereinafter referred to as "CIT(A)"] dated 30.12.2025 arising in the matter of assessment order dated 27.12.2019 passed u/s. 143(3) r.w.s. 147 of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2012-13.

2. Although, this appeal filed by the assessee, for Assessment Year 2012-13, contains multiple ground of appeals. However, at the time of hearing, I have



carefully perused all the grounds raised by the assessee. I find that most of the grounds raised by the assessee, are either academic in nature or contentious in nature. However, to meet the end of justice, I confine myself to the core of the controversy and main grievances of the assessee. The solitary grievance of the assessee, in this appeal is that learned CIT(A) erred in making the addition of Rs.13,00,000/- on account of interest- free unsecured loan given by the assessee to its relatives and learned CIT(A) also erred in making the addition of Rs. 7,00,000/- on account of cash deposited in the bank account. Total of both additions comes to Rs.20,00,000/-

3. Succinctly, the factual panorama of the case is that assessee before me is an Individual. The assessee is engaged in the business of civil construction work under the name and style of proprietorship firm, M/s Jalaram Builders. On the basis of information available on records, the assessee`s case was reopened u/s 147 of the Act, after recording the reasons for reopening and obtaining prior approval from the competent authority. Accordingly, notice u/s 148 of the Act issued on 26.03.2019, and the same was duly served upon the assessee. Thereafter, notice u/s 142(1) of the Act was issued on 04.07.2019, 17.07.2019, and 05.08.2019 and show cause notice was issued on 27.08.2019 & 17.10.2019. Thereafter, a summon u/s 131 of the Act was issued on 31.10.2019. Thereafter, notice u/s 142(1) r.w.s 129 was issued on 13.11.2019. In response to these notices, the assessee furnished his reply before assessing officer on 21.11.2019 and filed return of income on 27.11.2019, declaring total income of Rs. 1,81,840/-. Thereafter, notice u/s 143(2) of the Act, was issued on 20.12.2019 and notice u/s 142(1) of the Act was issued on 28.11.2019. In response to these notices, the assessee furnished the submission/details as called for during course of assessment proceedings.

4. The assessing officer noticed that as per the information available on record, the assessee has given interest free unsecured loan of Rs. 13,00,000/-, during Financial



Year (F.Y.) 2011-12 to Shri Deep Maheshbhai Vithlani. However, on perusal of original return of income (ROI) for assessment year (A.Y.) 2012- 13, it was observed by the assessing officer that the assessee has shown Rs. 1,00,000/- under the head deposits, loans & advance to corporate and others. Therefore, the source of funds utilised for giving unsecured loan of Rs. 13,00,000/-, to Shri Deep Maheshbhai Vithlani remains unexplained. To justify the source of unsecured loans, the assessee has vide his reply e-filed on 22.11.2019, submitted books of accounts of Mr. Manishkumar Jadulal Thakkar and M/s. Jalaram Builders (Assessee's proprietorship concern) and shown the unsecured loan given to Shri Deep Maheshbhai Vithlani into Balance Sheet of Mr. Manishkumar Jadulal Thakkar (i.e. himself). However, the same was not accepted by the assessing officer, as the the assessee has deposited cash of Rs. 20,00,000/-, after giving benefit of peak credit, into his bank account no. 09769 maintained with the Rajkot Commercial Co-operative Bank Ltd. However, the assessee did not furnish source of cash deposits. Therefore, a show cause notice dated 21.12.2019 was issued to the assessee, which is reproduced in the assessment order page Nos. 2 and 3, by the assessing officer.

5. In response to this notice, the assessee submitted his reply dated 23.12.2019, before the assessing officer. The assessee submitted that he has furnished his personal balance sheet and capital account wherein he has shown capital of Rs. 20,00,180/- as on 01.04.2011 along with cash on hand of Rs. 14,14,962/- and the source of cash deposits of Rs. 20,00,000/- is cash on hand available with him and out of past savings. The assessee submitted cash book from 01.04.2011 to 31.03.2012, with opening cash balance of Rs. 14,14,962/-. Further, the assessee has shown cash receipts of Rs. 5,99,000/- from Jadulalbhai Thakkar on 17.10.2011. The assessee has furnished supporting documentary evidence in respect of this transaction and therefore, the identity, genuineness and creditworthiness of this



transaction has been proved. The assessee submitted that he is working since last 30 years and he has been regularly filing return of income (ROI) and paying taxes. The assessee also submitted before the assessing officer that he is maintaining his personal books of accounts as well as proprietary business accounts separately owing to the reasons, viz: (i) increase in business transactions (ii) to separately maintain his personal assets and liability (iii) ex-partner in partnership firms. The assessee further submitted copies of several return of income filed for previous year. The assessee also submitted personal balance sheet along with return of income filed in response to notice u/s 148 of the Act and also submitting cash book for A.Y. 2012-13.

6. However, the assessing officer rejected the above contention of the assessee and held that the cash deposits of Rs. 20,00,000/- was out of the cash balance available in assessee's personal books of accounts cannot be accepted as substantiated and further, the assessee's contention that the unsecured loan of Rs. 13 lakhs to Shri Deep Maheshbhai Vithlani was given out of this fund deposited in bank account was also not accepted by the assessing officer. Therefore, the amount of Rs. 13,00,000/- utilised for giving unsecured loan to Shri Deep Maheshbhai Vithlani was treated, by the assessing officer, as unexplained investment of the assessee within the meaning of section 69 of the Act and added to his total income for A.Y. 2012-13. Further, assessing officer noticed that the source of cash deposits of Rs. 20,00,000/- into bank account in A.Y. 2012-13 remains unexplained. However, it was submitted by the assessee that the assessee has given unsecured loan of Rs. 13 lakhs after deposit of Rs. 20 lakhs into his bank account and addition of Rs. 13 lakhs, u/s 69 of the Act has been made as discussed (supra). Therefore, the cash deposits into bank account of the assessee to the tune of Rs. 7,00,000/- (Rs. 20,00,000 – Rs. 13,00,000) was treated as unexplained money within the meaning of section 69A of the Act and



added to assessee's total income for the period under consideration. Therefore, assessing officer made total addition of Rs.20,00,000/- (Rs.13,00,000 + Rs.7,00,000).

7. Aggrieved by the order of the assessing officer, the assessee carried the matter in appeal before the Ld.CIT(A), who has confirmed the action of the assessing officer. In the appellate proceedings, the assessee contended that amount of Rs. 6,41,550/-, was out of sale of gold belonging to his mother and had submitted the invoices. The amount Rs.7,59,500/-, was on account of money received from mother (death certificate submitted) and the amount of Rs. 5,99,000/-, was on account of money received from father (death certificate submitted by the assessee.). The assessee also, alternatively argued before Id. CIT(A) that entire cash deposit should not be treated as net profit of the assessee, however, profit element embedded in the cash deposit in the bank account should be added at the rate of 8%, by following the provisions of section 44AD of the Act, as the amount deposited in the bank account represents sale proceeds from assessee`s business. However, Ld.CIT(A) rejected the above arguments of the assessee and observed that it is an undisputed fact that during the assessment proceedings, the assessee failed to submit any documentary evidence to explain the source of cash deposits. The contention of the assessee that the cash deposit is on account of sale of gold belonging to his mother, money received from mother and gift received from father is clearly an afterthought, as they are not substantiated by any documentary evidences. Merely furnishing the invoices has no evidentiary value. Therefore, learned CIT (A) confirmed the addition made by the assessing officer.

8. Aggrieved by the order of the Ld.CIT(A), the assessee is in appeal before this Tribunal.



9. At the outset, the Ld. Counsel for the assessee submitted that during the assessment proceedings, to prove genuineness of the transaction, of loan given at Rs.13,00,000/-, has been proved by the assessee, by submitting his personal balance-sheet and capital account, and source from which the loan was given. The assessee has been maintaining books of accounts since a long and this fact may be verified from the opening balance, which is coming from the previous year in the balance sheet and the capital account, therefore, addition of Rs.13,00,000/- may be deleted. The Ld. Counsel for the assessee, further submitted that assessing officer, ought not to have made addition to the tune of Rs.7,00,000/-, on account of cash deposited in the bank account, as the cash was deposited in the bank account out of the opening cash balance in the books of accounts and past savings of the assessee, therefore, such addition should be deleted. Alternatively, learned Counsel for the assessee submitted that only profit element may be added in the hands of the assessee, taking into account the turnover of the assessee at Rs.20,00,000/- and therefore, *ad hoc*, estimated addition may be made in the hands of the assessee at the rate of 8% on Rs. 20,00,000/- (Rs.13,00,000 + Rs.7,00,000).

10. On the other hand, the Ld. DR for the Revenue has primarily reiterated the stand taken by the Assessing Officer, which I have already noted in my earlier para and is not being repeated for the sake of brevity.

11. I have heard the rival parties and have gone through the material placed on record. I note that the capital account of the assessee has shown capital to the tune of Rs.20,00,180/-, as on 1st April 2011, previous year, along with cash on hand of Rs. 14,14,962/-. The assessee has been maintaining books of accounts, since long and paying the taxes regularly. Therefore, it cannot be said that books of accounts maintained by the assessee are false and fabricated. There is no finding of the assessing officer that the books of accounts, so maintained by the assessee are



fabricated and false. The assessee submitted Return of Income for the period, from 1st April 2011 to 31st March 2012 and shown as opening of cash balance of Rs. 14,14,962/-, further the assessee has received of cash from Jadulalbai Thakkar at Rs. 5,99,000/-. The assessee has also submitted copy of the several Return of Income of the previous years, before the assessing officer. The assessee is maintaining books of account and submitted entire books of account before the assessing officer to explain the source of cash deposited to the tune of Rs. 20,00,000/-. The assessee has also submitted the source of unsecured loan, given by him, out of bank balance. It was also verified by the assessing officer from ITD portal that the assessee had submitted the balance sheet, capital account and return of income, for the year under consideration.

12. I note that assessee also filed return of income in response to notice under section 148 of the Act, on 27-11-2019, which also included personal balance sheet profit and loss account and capital account. I note that at the time of filing original return of income, the assessee had filed only business related books of accounts in which there were earnings and the assessee was under impression that personal balance sheet in which there is no earnings, was created only for the purpose of maintenance of personal assets and liabilities, was not required to be clubbed with business books of accounts. However, the same was also duly submitted with return of income filed under section 148 of the Act as stated above. The assessing officer failed to consider the information and documents submitted along with return filed against notice under section 148/ 142(1) of the Act. The assessee also submitted copies of previous return and stated the fact that he has been earning and filing return of income since last 30 years. Shri Jadulal Thakkar is the father of Manishbhai Thakkar (assessee) and Rs. 5,99,000/- was received as gift from him, by the assessee. Further, the loan of Rs.13,00,000/- was given to Shri Deep Maheshbhai Vithlani out of the above



funds deposited in the bank account. The assessee has furnished the breakup of such cash deposit at Rs.20,00,000/- in his bank account, which is as follows:

Cash Deposit (Rs.)	Source	Attachment
6,41,550	Sale of Gold of assessee's mother	Gold invoices are attached herewith
7,59,500	Life-saving of assessee's mother	Death certificate of assessee's mother attached is herewith
5,99,000	Gift received from assessee's father	Death certificate of assessee's Father is attached herewith
20,00,050	Total	

13. However, I note that assessing officer did not accept the above documents and evidences, of the assessee, and merely stated in the assessment order that the documents and evidences submitted by the assessee are not acceptable without mentioning the reasons that why they are not acceptable. When the assessee has submitted plethora of documents to prove his claim, they should not be rejected by the assessing officer merely based on conjuncture. For that I rely on the Judgment of Hon'ble Supreme Court in case of **Sreelekha Bannerjee** (491 ITR 122), wherein it was held that “ *before the department rejects such evidence, it must either show an inherent weakness in the explanation or rebut it by putting to the assessee some information or evidence, which it has in possession ...* ”

14. I further find that some of the documents and evidences submitted by the assessee before the lower authorities are as self-servicing documents and hence they should not be relied fully. Therefore, I find that while the case of the assessee merits some relief, at the same time entire relief cannot be permitted to the assessee. Therefore, after considering the facts and circumstances of the case, I am of the view that since the entire cash deposited in bank account of Rs.7,00,000/- and unsecured loan given



by the assessee out of cash deposited in bank account of Rs.13,00,000/-, total Rs. 20,00,000/-, should not be treated net taxable income of the assessee and only profit element should be taxed in the hands of the assessee. Therefore, I am of the view that the estimated addition on Rs.20,00,000/- should be @ 10%, which will take care of inconsistency in the various documents and evidences submitted by the assessee before the lower authority. Therefore, the assessing officer, is directed to make the addition in the hands of assessee, at the rate of 10%, which comes to Rs.2,00,000/- (10% of Rs.20,00,000), hence, I allow appeal of the assessee partly.

15. Before parting, I make it clear that the assessee had explained the source of cash deposited in bank account and unsecured loan, therefore the addition is sustained at the rate of 10% at Rs. 2,00,000/-,(10% of Rs.20,00,000), which should not be taxable u/s. 115BBE of the Act, hence, I direct the assessing officer to tax the amount of Rs.2,00,000/- by following the normal rate of income tax.

16. In the result, the appeal of the assessee is partly allowed, in above terms.

Order is pronounced in the open court on 16/01/2026.

**Sd/-
(Dr. Arjun Lal Saini)
Accountant Member**

राजकोट/Rajkot

//True Copy//

दिनांक/ Date: 16/01/2026

Copy of the order forwarded to :

1. The assessee
2. The Respondent
3. CIT
4. The CIT(A)
5. DR, ITAT, RAJKOT
6. Guard File

By order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot