

**IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH "SMC" SURAT**

**BEFORE SHRI SANDEEP GOSAIN (JUDICIAL MEMBER)
AND
SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)**

**ITA No. 484/SRT/2025
Assessment Year: 2012-13**

Hiteshbhai Rameshbhai Patel
466 Kanbivad, Goddha Mahuwa,
Taluka Valod, Dist. Surat 394630
Gujarat,

Vs. Income Tax Officer,
Ward-2, Bardoli, Income Tax
Office, 2nd Floor, BSNL
Building, Opp. Jalaram
Temple, Station Road,
Bardoli- 394601

PAN NO. AVDPP 6788 Q
Appellant

Respondent

Assessee by : Mr. Sakar Sharma, AR
Revenue by : Mr. J.K. Chandani, Sr-DR

Date of Hearing : 09/10/2025
Date of pronouncement : 23/12/2025

ORDER

PER OM PRAKASH KANT, AM

This appeal by the assessee is directed against order dated 27.02.2025 passed by the Ld. Commissioner of Income-tax (Appeals)-National Faceless Appeal Centre, Delhi [in short 'the Ld.CIT(A)'] for assessment year 2012-13, raising following grounds:-

"1. The Ld. CIT(A)-NFAC erred on facts and in law in upholding issuance of notice u/s 147 and assessment u/s 147 without appreciating that there was no escapement of income.



2. The Ld. CIT(A)-NFAC erred on facts and in law in confirming addition of Rs. 41,40,000/- u/s 68 r.w.s. 1115BBE on account of deposit of cash in the bank account as unexplained income of the appellant without appreciating that entire deposit of cash was nothing but redeposit of cash withdrawn on earlier occasions and also on account of earning of agricultural income.”

2. Briefly stated, the facts of the case are that the Assessing Officer received information through the Income-tax Portal that during the financial year 2011-12, relevant to the assessment year 2012-13, the assessee had deposited cash amounting to ₹41,40,000/- in his bank account maintained with Bank of Baroda and had earned brokerage/commission income of ₹9,120/-. It was further noticed that the assessee had not filed any return of income for the year under consideration.

2.1 Having regard to the aforesaid information and the magnitude of cash deposits, the Assessing Officer recorded reasons to believe that income to the extent of ₹41,49,120/- had escaped assessment within the meaning of section 147 of the Income-tax Act, 1961 (“the Act”). Accordingly, after obtaining the requisite approval under section 151(1) of the Act from the competent authority, notice under section 148 of the Act was issued on 29.03.2019. The said notice was duly served upon the assessee both by speed post as well as through electronic mode.

2.2 In response thereto, the assessee filed his return of income on 06.04.2019 declaring total income of ₹18,882/- and agricultural



income of ₹34,83,770/-. Thereafter, statutory notices were issued calling upon the assessee to furnish details of the bank account, cash deposits made therein, particulars of agricultural land held, details of agricultural income claimed, and expenses incurred for earning such income.

2.3 Upon consideration of the submissions and material placed on record, the Assessing Officer completed the reassessment proceedings and passed an order dated 09.12.2019 under section 147 read with section 143(3) of the Act, making an addition of ₹41,40,000/-.

3. Aggrieved by the said addition, the assessee preferred an appeal before the Commissioner of Income-tax (Appeals). During the appellate proceedings, the assessee filed additional evidence under Rule 46A of the Income-tax Rules, 1962, including bank statements, copies of revenue records in Form No. 7/12 and 8A evidencing ownership of agricultural land, certificates relating to sugarcane cultivation, and other supporting documents. The Commissioner (Appeals) called for a remand report from the Assessing Officer.

3.1 In the remand report, the Assessing Officer did not accept the assessee's explanation in support of the claim of agricultural income. Upon consideration of the material on record and the



remand report, the Commissioner (Appeals) rejected the assessee's contentions and dismissed the appeal.

3.2 Being aggrieved by the order of the Commissioner (Appeals), the assessee is now in appeal before the Tribunal on the grounds reproduced hereinabove.

4. Before us Ld. Counsel for the assessee filed a paper book containing pages 1-101.

5. Ground No. 1 of the appeal challenges the validity of the reassessment proceedings initiated under section 147 of the Act. The learned counsel for the assessee contended that cash deposit *per-se*, by itself, does not constitute income and, therefore, could not form the basis for recording a valid belief of escapement of income. It was submitted that the reasons recorded by the Assessing Officer were founded on mere suspicion, were vague and far-fetched, and disclosed no tangible material to indicate tax evasion by the assessee. According to the learned counsel, the reopening was the result of a mechanical exercise undertaken without due application of mind. Reliance was placed on the decision of the SMC Bench of the Tribunal in *Hiteshbhai Rameshbhai Patel v. ITO* in ITA No. 193/Srt/2019 for assessment year 2012-13.

5.1 The learned Departmental Representative, on the other hand, supported the orders of the lower authorities.



6. We have carefully considered the rival submissions and perused the material available on record. At the outset, we note that no specific ground challenging the validity of the reassessment proceedings was raised before the Commissioner (Appeals), nor was any adjudication rendered thereon. During the course of hearing before us, the learned counsel for the assessee, by way of an oral plea, sought admission of Ground No. 1 as an additional ground. The learned Departmental Representative did not object to such plea of assessee.

6.1 Since the additional ground raised is purely legal in nature and does not require investigation into fresh facts, the same is admitted, following the ratio laid down by the Hon'ble Supreme Court in *NTPC Ltd. v. CIT* (1998) 229 ITR 383 (SC).

7. Coming to the merits of the additional ground, we observe that the assessee has not placed on record a copy of the reasons recorded for reopening. However, from the assessment order, it is evident that the Assessing Officer recorded reasons on the basis of information regarding substantial cash deposits aggregating to ₹41,00,000/- in the assessee's bank account, coupled with the fact that no return of income had been filed for the relevant assessment year. In the absence of a return of income, the Assessing Officer had no occasion to examine or verify the source of such cash deposits. The formation of belief by the Assessing Officer was thus based on tangible material, namely, information of substantial cash



deposits and non-filing of return of income. These facts constituted relevant material for the purpose of forming a prima facie belief that income chargeable to tax had escaped assessment.

7.1 Further, under the provisions of section 147, as applicable to the year under consideration, the Explanation thereto clearly provides that *where no return of income had been furnished by the assessee though his total income assessable during the relevant year exceed the minimum amount not chargeable to tax , then it would be deemed to be a case of income chargeable to tax escaped assessment.* In the present case, the Assessing Officer noticed cash deposits exceeding ₹41,00,000/- and the absence of any return of income. On these facts, it was reasonable for the Assessing Officer to form a belief that the assessee's income exceeded the basic exemption limit and had escaped assessment.

7.2 At the stage of initiation of proceedings under section 147, the Assessing Officer is only required to form a prima facie "reason to believe" that income chargeable to tax has escaped assessment, and not to conclusively establish such escapement. As consistently held by the Hon'ble Supreme Court in *Raymond Woollen Mills Ltd. v. ITO* (236 ITR 34) and *Phool Chand Bajrang Lal v. ITO* (203 ITR 456), the adequacy or sufficiency of the material on which such belief is formed is not open to judicial scrutiny at this stage; what is required is the existence of some tangible material having a live nexus with the formation of belief. In the present case, information



regarding substantial cash deposits coupled with the non-filing of return of income constituted relevant and tangible material, and the belief formed thereon cannot be characterised as a mere suspicion or conjecture. The reopening, therefore, satisfies the statutory threshold of section 147 and cannot be invalidated on the ground of lack of application of mind. The allegations of the assessee of non application of the mind by the AO as well as the reasons being vague are unfounded and therefore, accordingly liable to be rejected. The additional ground of the appeal of the assessee is accordingly dismissed.

8. Ground No. 2 of the appeal pertains to the addition of ₹41,40,000/- made under section 68 of the Act on account of cash deposits in the assessee's bank account, treated as unexplained cash credits.

8.1 The facts in brief qua the issue-in-dispute are that the ld the Assessing Officer noticed aggregate cash deposits of ₹41,40,000/- in bank account No. 17830100001422 maintained by the assessee with Bank of Baroda during the year under consideration. The details of such deposits are as under:

Sr. No.	Deposit date	Amount of Transaction
1	02.04.2011	600000
2	02.08.2011	100000
3	16.08.2011	140000
4	24.09.2011	500000
5	18.10.2011	50000



6	21.10.2011	300000
7	05.11.2011	100000
8	01.12.2011	1000000
9	10.12.2011	450000
10	22.12.2011	400000
11	04.01.2012	150000
12	13.01.2012	250000
13	13.03.2012	100000
	Total	41,40,000/-

8.2 The Id Assessing Officer called upon the assessee to explain the source of the aforesaid cash deposits. The assessee claimed that the deposits were out of agricultural income and furnished copies of land revenue records in Form No. 7/12 and 8A, along with certificates issued by *Shree Khedut Sahakari Khand Udyog Mandali Ltd.* for financial years 2009–10 to 2012–13. However, the Assessing Officer observed that payments for agricultural produce were received by the assessee through banking channels, and there were no commensurate cash withdrawals preceding the cash deposits. It was further noted that although the assessee claimed agricultural income of ₹34,83,770/-, no documentary evidence was produced in support of agricultural expenses such as purchase of seeds, fertilisers, pesticides, or other inputs. In the absence of satisfactory explanation and supporting evidence, the Assessing Officer treated the entire cash deposits of ₹41,40,000/- as unexplained cash credits under section 68 of the Act.

8.3 In the appellate proceedings before the Commissioner (Appeals), the assessee submitted bank statements and a cash flow



statement, contending that sufficient cash had been withdrawn from the bank and re-deposited thereafter. A remand report was called for from the Assessing Officer. In the remand proceedings, the Assessing Officer reiterated the findings recorded in the assessment order and specifically noted that the assessee had not furnished details or evidence regarding agricultural expenses, such as bills for seeds, fertilisers, pesticides, the nature of crops grown, area under cultivation, mode of incurring expenditure, or the source thereof. Despite being afforded two opportunities by the 1d CIT(A), the assessee failed to rebut the findings in the remand report. The Commissioner (Appeals), therefore, upheld the addition made by the Assessing Officer.

8.4 Before us, the learned counsel for the assessee relied upon the paper book and submitted that sufficient cash withdrawals were available to explain the impugned cash deposits. The learned Departmental Representative, on the other hand, contended that the assessee had failed to establish that such withdrawals were available for redeposit, as the same were liable to have been utilised towards agricultural expenses, the source of which remained unexplained. Therefore, the claim of the assessee that there are sufficient withdrawals to justify the cash deposit cannot be accepted.

8.5 We have considered the rival submissions and perused the material on record. The assessee has placed reliance on a chart of



cash withdrawals (paper book pages 44-45) and a cash flow statement for the year (paper book page 97) to contend that adequate cash was available for redeposit. The relevant chart filed by the assessee, available on paper book page 44 and 45 is reproduced as under:

Hiteshbhai Rameshbhai Patel, Godha Mahuwa, Valod, Surat
Details of Cash Withdrawals and Cash Deposits in bank accounts for the year ended 31-03-2012

Date	Cash Withdrawals			Cash Deposit			Balance
	BOB, Kalakava, Surat A/c No. 1783010000 1422	The Surat District Co-op Bank Ltd A/c No. 025011000 003099	Total Cash Withdrawal being Source of Fund deposited in the Bank	BOB, Kalakava, Surat A/c No. 1783010000 1422	The Surat District Co-op Bank Ltd A/c No. 02501100000 3099	Total Cash Deposit being Application of Funds	
28-12-2010	1655000	0	1655000	0	0	0	1655000.00
07-01-2011	0	0	0	500000	0	500000	1155000.00
13-01-2011	125000	0	125000	0	0	0	1280000.00
12-02-2011	0	0	0	50000	0	50000	1230000.00
14-03-2011	200000	0	200000	0	0	0	1430000.00
24-03-2011	50000	0	50000	0	0	0	1480000.00
02-04-2011	0	0	0	600000	0	600000	880000.00
04-04-2011	15000	0	15000	0	0	0	895000.00
11-04-2011	20000	0	20000	0	0	0	915000.00
11-04-2011	150000	0	150000	0	0	0	1065000.00
28-04-2011	150000	0	150000	0	0	0	1215000.00
26-05-2011	30000	0	30000	0	0	0	1245000.00
07-06-2011	184000	0	184000	0	0	0	1429000.00
07-06-2011	134550	0	134550	0	0	0	1563550.00
09-06-2011	200000	0	200000	0	0	0	1763550.00
09-06-2011	200000	0	200000	0	0	0	1963550.00
10-06-2011	33000	20000	53000	0	0	0	2016550.00
10-06-2011	42500	0	42500	0	0	0	2059050.00
16-06-2011	150000	0	150000	0	0	0	2209050.00
27-06-2011	30000	0	30000	0	0	0	2239050.00
05-07-2011	100000	0	100000	0	0	0	2339050.00
19-07-2011	65000	0	65000	0	0	0	2404050.00
29-07-2011	500000	0	500000	0	0	0	2904050.00
02-08-2011	0	0	0	100000	0	100000	2804050.00
16-08-2011	0	0	0	140000	0	140000	2664050.00
19-08-2011	0	10000	10000	0	0	0	2674050.00
20-08-2011	50000	0	50000	0	0	0	2724050.00
25-08-2011	50000	0	50000	0	0	0	2774050.00
24-09-2011	0	0	0	500000	0	500000	2274050.00
04-10-2011	200000	0	200000	0	0	0	2474050.00
07-10-2011	0	18000	18000	0	0	0	2492050.00
08-10-2011	103950	0	103950	0	0	0	2596000.00
10-10-2011	40800	0	40800	0	0	0	2636800.00
11-10-2011	20000	0	20000	0	0	0	2656800.00
17-10-2011	20000	0	20000	0	0	0	2676800.00
18-10-2011	0	0	0	50000	0	50000	2626800.00
21-10-2011	100000	0	100000	0	0	0	2726800.00
21-10-2011	0	0	0	300000	0	300000	2426800.00
24-10-2011	410000	0	410000	0	0	0	2836800.00
01-11-2011	35000	0	35000	0	0	0	2871800.00
05-11-2011	0	0	0	100000	0	100000	2771800.00
08-11-2011	70000	0	70000	0	0	0	2841800.00
10-11-2011	28000	0	28000	0	0	0	2869800.00
10-11-2011	50000	0	50000	0	0	0	2919800.00
11-11-2011	0	25000	25000	0	0	0	2944800.00



Hiteshbhai Rameshbhai Patel, Goddha Mahuwa, Valed, Surat
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	BOB, Kalakava, Surat A/c No. 1783010000 1422	The Surat District Co-op Bank Ltd A/c No. 025011000 003099	Total Cash Withdrawal being Source of Fund deposited in the Bank	BOB, Kalakava, Surat A/c No. 1783010000 1422	The Surat District Co-op Bank Ltd A/c No. 02501100000 3099	Total Cash Deposit being Application of Funds	
01-12-2011	0	0	0	1000000	0	1000000	1944800.00
10-12-2011	0	0	0	450000	0	450000	1494800.00
22-12-2011	0	0	0	400000	0	400000	1094800.00
24-12-2011	50000	0	50000	0	0	0	1144800.00
02-01-2012	65000	0	65000	0	0	0	1209800.00
03-01-2012	150000	0	150000	0	0	0	1359800.00
04-01-2012	0	0	0	150000	0	150000	1209800.00
13-01-2012	0	0	0	250000	0	250000	959800.00
23-01-2012	110000	0	110000	0	0	0	1069800.00
21-02-2012	100000	0	100000	0	0	0	1169800.00
06-03-2012	75000	0	75000	0	0	0	1244800.00
13-03-2012	0	0	0	100000	0	100000	1344800.00
16-03-2012	100000	0	100000	0	0	0	1244800.00
22-03-2012	300000	0	300000	0	0	0	1544800.00
Total	6161800	73000	6234800	4690000	0	4690000	1544800

8.6 However, when specifically queried, the learned counsel for the assessee was unable to explain or demonstrate the source of expenditure incurred for carrying out agricultural activities and requested that assessee may produce all those documents if one more opportunity is given to appear before the Assessing Officer.

8.7 It is well settled that where any sum is found credited in the books of an assessee, the initial onus under section 68 of the Act lies upon the assessee to satisfactorily explain the nature and source thereof. Such explanation must be supported by credible material establishing not merely the availability of funds, but also the factual nexus between the source pleaded and the credit in question. While the existence of cash withdrawals may prima facie indicate availability of funds, such availability by itself is not sufficient unless it is further established that the withdrawals were not utilised for agricultural or other personal expenses and were, in



fact, available for redeposit into the bank account. In the absence of evidences regarding agricultural expenditure and its source, the explanation offered by the assessee remains incomplete.

8.7 Having regard to the totality of facts and in the interest of justice, we are of the considered view that the issue requires fresh examination at the end of Id Assessing Officer. Accordingly, we deem it appropriate to restore the matter to the file of the Assessing Officer with a direction to afford one more opportunity to the assessee to furnish complete details and supporting evidence regarding agricultural activities, expenses incurred thereon, and the source of such expenditure. The Assessing Officer shall thereafter examine whether the cash withdrawals were available for redeposit and adjudicate the issue in accordance with law, after due verification.

8.8 Ground No. 2 of the appeal of the assessee is accordingly allowed for statistical purposes.

9. In the result, appeal of the assessee is partly allowed for statistical purposes.

**Order pronounced by way display of result on notice board
on 23/12/2025 under Rule 34(4) of ITAT Rules, 1963.**

**Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER**

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**



Surat

Dated: 23/12/2025

Disha Raut, Stenographer

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Surat
5. Guard file.

BY ORDER,

//True Copy//

(Assistant Registrar)
ITAT, Surat