



आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।  
**IN THE INCOME TAX APPELLATE TRIBUNAL,  
RAJKOT BENCH (SMC), RAJKOT**

**BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER.**

आयकरअपीलसं./ITA No.632 & 633/RJT/2025

निर्धारणवर्ष/Assessment Year: (2010-11)

Shri Ashokbhai Bhimajibhai Parmar C/o Shital Provisions Stores, Main Bazar Rajula, Amreli-365 560	बनाम/ Vs.	Income Tax Officer, Ward- 3(1)(4), Rajkot-Amreli
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AOIPP 0012 R</b>		
<b>(Assessee)</b>		<b>(Respondent)</b>

आयकर अपील सं./ITA No.634/RJT/2025

निर्धारणवर्ष / Assessment Year: (2011-12)

Shri Ashokbhai Bhimajibhai Parmar C/o Shital Provisions Stores, Main Bazar Rajula, Amreli-365 560	बनाम/ Vs.	Income Tax Officer, Ward- 3(1)(4), Amreli
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AOIPP 0012 R</b>		
<b>(Assessee)</b>		<b>(Respondent)</b>

आयकरअपीलसं./ITA No.580/RJT/2025

निर्धारणवर्ष/Assessment Year: (2012-13)

Shri Ashokbhai Bhimajibhai Parmar C/o Shital Provisions Stores, Main Bazar Rajula, Amreli-365 560	बनाम/ Vs.	Income Tax Officer, Ward- 3(1)(4), Amreli
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AOIPP0012R</b>		
<b>(Assessee)</b>		<b>(Respondent)</b>

Assessee by : Written Submission  
Respondent by : Shri Gopi Nath Chaubey, Sr. (DR)

**Date of Hearing : 24/12/2025**  
**Date of Pronouncement : 19/01/2026**



आदेश / O R D E R

**Per, Dr. Arjun Lal Saini AM:**

These captioned four appeals are filed by single assessee. The appeal in ITA No.580/RJT/2025, is quantum appeal and pertaining to assessment year 2012–13, which is directed against the order passed by the Learned Commissioner of Income Tax Appeal Addl/JCIT(A)-2 Bengaluru [in short ‘Ld.CIT(A)’], under section 250 of the Income-tax Act, 1961 (hereinafter referred to as ‘the Act’), dated 09.09.2025. In two appeals, viz: in ITA Nos.632 and 633/RJT/2025, the assessee has challenged the validity of penalties levied, u/s 271(1)(c) of the Act for assessment year (AY) 2010-11. In ITA No.634/RJT/2025 the assessee has challenged the validity of penalty imposed u/s 271F of the Act for AY 2011-12.

2. Since, these four appeals pertain to the same assessee, therefore, I have clubbed these appeals and heard together and a consolidated order is being passed for the sake of convenience and brevity.

3. Notice of hearing of these appeals were sent to the assessee at the address given by the assessee in Form No.36. The said notices have not been returned unserved. Today when the cases were called for hearing none appeared on behalf of the assessee nor any request for adjournment was made. It means that assessee is not interested in prosecuting these appeals. However, I note that assessee has submitted written submission and stated that adjudication may be done by the Bench based on the written submission. Learned DR for the revenue also submitted that these appeals should be heard and adjudication of these appeals should be based on the written submission filed by the assessee.

4. I have heard learned DR for the revenue and gone through the order of the lower authorities and written submission filed by the assessee. At the outset, Ld. Sr-DR for the revenue submitted that assessee did not appear despite



issuance of notices for hearing and submitted written submission only. The Ld. Sr-DR further submitted that this Bench may consider the written submission filed by the assessee for adjudication and since these written submissions filed by the assessee had not accompanied by relevant documents and evidences. Therefore, written submission filed by the assessee should be admitted and matter may be restored back to the file of the assessing officer, to examine the relevant documents and evidences mentioned in the written submission. Since the assessee has submitted the written submission before the Bench, however, the documents and evidences, mentioned in the written submission have not been submitted by the assessee before the Bench, therefore, without documents and evidences, which are stated in the written submission, the various grounds raised by the assessee cannot not be adjudicated by the Tribunal and therefore, all these appeals should be restored back to the file of the Assessing Officer to examine the relevant documents and evidences mentioned in the written submission and then assessing officer, may adjudicate the issue in accordance with Law.

5. I have gone through the written submissions filed by the assessee. The written submission filed by the assessee are reproduced below, for ready reference:

*“ The appeal is against the following addition.*

*1. Rs. 147607 as per page 5 of assessment order treating Rs.147607out of Rs 447607 from HDFC Bank account 00000028 accepting Rs.50,000 and 2,50,000 i.e., 3 lakh treating as explain and balance 147607 treated as explain.*

*2. Making addition of Rs. 187593 out of addition of Rs 196896 deleting there from amount of Rs. 607820+601483 treating accepted as maturity value of F.D. by the ld CIT(A) vide order Para 6.3.3 page 7 deleting the same and balance amount of Rs. 187593 retaining.*

*3. Amount of Rs.123908 traded as income from MCX transaction Assessment Order page 7 para 8.*

*4. As regard addition of 196896, As regards amount of Rs. 10,000/- credited on 21-06-2011 and Rs.75,000/- credited on 21-11-2011 was explained that the same*



*pertains to repayment of loan received from Shri Ketanbhai Bhatt which is also received through cheque. This is also not accepted on the grounds that the balance sheet as on 31-3-2010 does not contain these entries. As stated in 2 above, the Ld. A.O. ought to have preferred to examine the concern person Shri Ketanbhai Bhatt to whom assessee could have produced and similar verification could have been done since repayment is also through account payee cheque and bank would have immediately confirmed the real position. Such types of addition are not sustainable in the eye of law and needs deletion.*

*4.2 A copy of bank accounts of SBI also shows that on 21-6-2011 the amount of Rs.10,000/- credited to the bank accounts is through cheque no. 135491. Similarly, the amount of Rs.75,000/- credited on 21-11-2011 is also by way of TFR (Transfer) through cheque no. 135457. Thus, it is evidence from the bank account also that the amount is received through cheque from Shri Ketanbhai Bhatt and without making any inquiry in the matter or verifying or obtaining statement of Shri Ketanbhai Bhatt the Ld. A.O. ought not to have made addition which may kindly be deleted.*

*4.3 In respect of amount of Rs. 10000 credited on 21-6-2011 and 75000 on 21-11-2011 being repayment of loan giving to the Ketanbhai Bhatt. As mention above repayment is made by Ketanbhai through check no. 135491 and 135457 in the bank account itself. Thus, who the transaction are accepted made through bank and confirmation thereof by the SBI Bank account thus disbeliefment is made without asking any further evidence or asking to produce the person concern from when bank account has issued check for repayment, examining him on oath and providing opportunity to cross examine him. Thus, the disbeliefment is against the settled law through inquiry is to be made instead this is made without providing any further opportunity to the assessee. The Hon CBDT and Hon Supreme court has often provide guidelines to provide and consider due opportunity. Moreover, the addition is also without considering provisions of section 250 which require to make addition with cogent reason and not providing opportunity with the assessee has never denied to produce the person concern.*

*5.1 As regard addition of Rs 214 + 52179 + 22200 (SBI account no. 25522) treating the same as interest income without mentioning that what part of this pertains to deposit of his wife the addition where of made of Rs. 601483 is deleted by the ld CIT(A). This may kindly be considered.*

*5.2 As regard addition of Rs.28000 mentioning transaction date as 21-05-2011 appears to be typing error as after 21-5-2011 before made is 31-12-2011 and after date made is 21-16-2011. Thus, addition is nearly without proper consideration and is discuss in respect of addition of Rs.1,23,908 pertaining to MCX transaction discuss with other addition in subsequent Para 7.1.*

*6.1 As regard addition of Rs.5000 on 11-4-2011 and 50000 on 20-4-2011 20000 on 9-5-2011, 40000 on 10-5-2011, 10000 on 3-6-2011 not accepting the same is from sundry debtors made form HDFC Bank account 00000028.*

*6.2 As regard credit of 5000 on 11-4-2011, the capacity of assessee not having such small amount in cash on hand is erroneous and ought not to have made addition being there of very small amount and stating to the assessee doing transaction with*



*MCX where huge amount accepted by the Id A.O. this is also discuss in subsequent para regarding MCX addition of Rs. 123908.*

*6.3 Addition of Rs. 375 +250+100 totaling to Rs 725 although HDFC Bank account clearly shows this is share dividend however disbelieved that no evidence of purchase of share are produce. For such a very very small amount disbeliefment is for the same is very very vegue opinion and not sustainable although in the eye of law since bank accept mention it is share dividend this may kindly be deleted.*

*7.1 Rs. 28000 and As regard addition of Rs 123908 is mention page 7 para 8 of assessment order the opening balance all the 3 about is shows total of Rs 130271, debit of Rs 770715, credit of Rs 646807 and closing balance of Rs 72773. This huge amount is firm to be accepted by the Id A.O. the addition of Rs. 28000 para as above 5.2 ought to have been considered is part of huge transaction and capacity of assessee. This being erroneous addition 50,000+20,000+40,000+10,000 (para 5.2) made may kindly be deleted considering the capacity of assessee.*

*7.2 Moreover, the MCX profit of 123908 added to the total income without accepting request of the assessee to apply the provisions of section 40A(3) which the act provide addition at 8% of such transaction only. Once it is treated as business income all consequent provisions relating to the mandatory to be followed. For example if it is treated as rental income then 1/9 repair expenses has to be granted and it is treated as salary income grant of standard deduction is mandatory. Thus, this MCX income being accepted business income application of section 40A(3) TREATING INCOME THERE OF AT 8% ought to have been made. This may kindly be accepted and due reduction may kindly be ordered to be granted.*

*8. The assessee has also very humbly rely on the following and very humbly pray for acceptance of above and for deletion of addition as prayed for.*

*Guesswork should not be vaild but reasonably connected to available material Though there is an element of guesswork in a 'best judgment assessment', it should not be a wild one, but should have a reasonable nexus to the available material and the circumstances of each case. Though the section provides for a summary method because of the default of the assessee, it does not enable the assessing authority to function capriciously without regard to the available material - State of Kerala V/s. Velukutty [1966] 60 ITR 239 (SC).*

*Estimate must be honest and fair. The authority making a best judgment assessee must make an honest and fair estimate of the income of the assessee and though arbitrariness cannot be avoided in such an estimate, the same must not be capricious but should have a reasonable nexus to the available material and the circumstances of the case Brij Bhushan Lal Parduman Kumar v/s. CIT [1978] 115 ITR 524 (SC).*

*Assessee must be apprised of comparable cases assessment on the basis of comparable cases, the assessee must be apprised of while making a best judgment those cases and given an opportunity to have his say in the matter K. Baliah v/s. CIT [1965] 56 ITR 182 (Mys.).*

*Action must not be dishonest, vindictive or capricious - The officer making a best judgment assessment must not act dishonestly, or vindictively or capriciously because he must exercise judgment in the matter. He must make what he honestly believes to*



*be a fair estimate of the proper figure of assessment, and for the purpose he must be able to take into consideration local knowledge and repute in regard to the assessee's circumstances and his own knowledge or previous returns / assessment of the assessee and all other matters which he thinks will assist him in arriving at a fair and proper estimate and though there must necessarily be guesswork in the matter, it must be honest guesswork CIT v/s. Laxminarain Badridas [1937] 5 ITR 170 (PC).*

*The appeal may kindly be allowed as prayed for above.”*

6. On perusal of above written submission, I note that even these written submissions are not clear and are not capable to be understood. I note that assessee submitted just these written submissions, and the assessee did not submit relevant documentary evidences, which are mentioned in these written submissions. Therefore, I do not wish to make any comments on the merits of the grounds raised by the assessee. Therefore, I am of the view that these written submissions are to be examined by the assessing officer with reference to the relevant documentary evidences, which would be submitted by the assessee before the assessing officer. Accordingly, I restore the issue back to the file of the assessing officer for fresh adjudication, after providing proper opportunity of hearing to the assessee in accordance with law. Needless to mention, the assessee shall cooperate in the proceedings before the lower authorities for disposal of these cases. For statistical purposes, all the appeals of the assessee are treated as allowed.

7. In the result, all these four appeals are allowed for statistical purposes.

A copy of the instant common order be placed in the respective case file(s)

**Order pronounced in the open court on 19/01/2026.**

**Sd/-**

**(Dr. Arjun Lal Saini)**

**लेखासदस्य/Accountant Member**

राजकोट /Rajkot

//True Copy//

दिनांक/ Date: 19/01/2026

DKP Outsourcing Sr.P.S



आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

अपीलार्थी/ The Appellant

प्रत्यर्थी/ The Respondent

आयकर आयुक्त/ CIT

आयकर आयुक्त(अपील)/ The CIT(A)

विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, राजकोट/ DR, ITAT, RAJKOT

गार्ड फाईल/ Guard File

By order/आदेश से,

सहायक पंजीकार

आयकर अपीलीय अधिकरण ,राजकोट