



IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT
BEFORE DR. ARJUN LAL SAINI, AM.

&

Dr. DINESH MOHAN SINHA, JM

आयकरअपीलसं./ITA No. 599/RJT/2025

निर्धारणवर्ष / Assessment Year: (2014-15)

(Hybrid Hearing)

Ila Jignesh Kumar Vakharia, Bagasra Road, At Derdi Kumbhaji, Derdi – Gondal - 364465	Vs.	The Income Tax Officer, Ward 1(2)(1), New Aayakar Bhawan, Vatiaka Rajkot - 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AQFPV0899R		
(Appellant)		(Respondent)

Appellant by : Shri Samir Bhuptani, Ld. AR
Respondent by : Shri Abhimanyu Singh Yadav Ld. SR. DR
Date of Hearing : 01 / 12 /2025
Date of Pronouncement : 20 / 01 /2026

आदेश / ORDER

PER, Dr. DINESH MOHAN SINHA JM;

Captioned two appeals filed by the assessee, pertaining to Assessment Year 2014-15, is directed against order passed under section 250 of the Income Tax Act, 1961 by National Faceless Appeal Centre (NFAC), Delhi/Commissioner of Income Tax (Appeals), dated 29/07/2025, which in turn arises out of an order passed by the Assessing Officer u/s 147 read with section 144B of the I.T. Act, on dated 28/05/2023.



The Grounds of appeal raised by the assessee are as follows: -

1. 1. *Ld. CIT(A) erred in law as well as on facts in passing the 1 order u/s. 250 of the Income Tax Act, 1961, which is bad in law and without appropriate jurisdiction.*

2. 2. *Ld. CIT(A) erred in law as well as on facts in passing the order in ex-parte, which is bad in law and without appropriate jurisdiction.*

3. 3. *Ld. AO erred in law as well as on facts in reopening the assessment, which is bad in law and without appropriate jurisdiction. Ld. CIT(A) erred in law as well as on facts in upholding the validity of the same.*

4. 5. *Ld. AO erred in law as well as on facts in making addition of 4 Rs. 1,97,500/-u/s. 69A of the act. Ld. CIT(A) erred in law as well as on facts in upholding the same.*

5. 6. *Ld. CIT(A) erred in law as well as on facts in upholding the addition despite of the admitted fact that the bank account of the appellant was misused and managed by the broker and not by appellant himself and consequently the additions ought to have been made in the hands of the broker and not in the hands of the appellant.*

6. 4. *Ld. AO erred in law as well as on facts in making addition of sum of the Rs. 1,38,00,000/- by invoking provision of section 68 of the act. Ld. CIT(A) erred in law as well as on facts in upholding same.*

3. Facts of the Case

The appellant is an individual earning job work income and engaged in the business of purchase and sale of shares and securities through recognized stock exchange and registered share broker. The return of income for A.Y. 2014-15 was filed on 30/03/2015 declaring total income of Rs 2,18,834/- was reopened on account of the search carried out u/s 132 of the Act on dated 11/09/2018 in the case of Jignesh Shah and Sanjay Shah of Ahmedabad. As per provisions of section 153C when any books



of account or other documents seized or requisitioned pertains to a person other than the person in whose case search is conducted, the books of accounts or documents are required to be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed to issue notice and assess or reassess the income of the person in accordance with the provisions of section 153C of the Act. Section 153 starts with Non obstante clause that is Notwithstanding which overrides the other provisions mentioned after this word. The language used in these sections, i.e. 'notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153 makes it clear that provisions of these sections are not made applicable to the assessments covered by the provisions of section 153C of the Act. The provisions of section 147 are general provisions. It is stated that there exists clear distinction between specific provisions and general provision and a specific provision overrides a general provision under the law. Therefore, section 153C being specific provision supersedes the general provision of section 147 of the Act. Order is passed u/s 143(3) rws 147 of the Act as against 153C of the Act.

The notice u/s 148A(b) of the Act dated 23/05/2022. The order u/s 148A(d) has been passed dated 27/07/2022 wherein modus operandi has been discussed and transaction in shares are referred to and some enquiry report submitted by Investigation Wing. Ld. AO is also required to obtain approval higher authority as per section 151 of the Act. The Ld. PCIT has merely signed the letter of approval, wherein a list of cases is mentioned for which



approval is being granted. It has been mentioned in the last para of the approval that amount escaping assessment is more than Rs. 50 lacs, therefore, approval is granted. There is no reference of material, whatsoever, perused by higher authority what has been the basis for reasoning behind granting approval.

The addition u/s 68 of the Act can be made with respect to credit entries in books of account. However, the amount of Rs. 1,38,00,000/- is the debit entry loans advanced and no additions for debit entry or loans advance can be made u/s 68 of the Act.

Addition amounting to Rs. 1,97,500 cash deposit was considered to be an unexplained cash deposit u/s. 69A of the Act.

Share transaction in Dhvanil Chemicals Ltd. Amounting to Rs. 39,31,375/- and commission of Rs. 78,628/-. Was considered to be in accommodation entry and treated as an unexplained money u/s. 69A of the Act. and commission earned to be taken @ 2% consider has unexplained expenses u/s. 69C of the Act. in penny script of Dhvanil Chemicals Ltd.

Ld. AO while making assessment made an addition u/s 68 of the Act amounting to Rs. 1,38,00,000/- on account of Rs. 88,00,000 transferred to M/s Sunflower Broking Pvt. Ltd and Rs 50,00,000 transferred to Royal Enterprises. Cash deposit 1,97,000/- addition on account of share transaction amounting to Rs. 39,37,375/-



4. That the assessee filed an appeal against the order of assessment before Ld. CIT(A) dated on 29/07/2025, which was dismissed by the Ld. CIT(A). on 29.07.2025

5. That the assessee field an appeal against the impugned order dated 29.07.2025 before this Tribunal.

i). The Ld. AR Submitted that the assessee could not complied with the notice issued by the CIT(A) request for an opportunity to be heard.

ii). On the contrary the Ld. DR. Relied on the order of the CIT(A).

6. We have heard both the parties and perused the material available on record. We note that the CIT(A) has issued four notices of hearing on dated 24.09.2024, 18.11.2024, 05.12.2024 & 14.02.2025. We note that there was non-compliance by the assessee in response to the notice issued by the CIT(A). We further note that the order of the Ld. CIT(A) is silent on the issue of notice service upon the assessee. Since, the order is silent on the service of notice upon the assessee. Therefore, we are of the view that one more opportunity should be given to the assessee to present his case before lower authority and remand the matter back to the file of the ld. ITO for fresh adjudication on merit after giving an opportunity to be heard and the assessee is further directed to file the return of income tax for A.Y. 2017-18 and submitted all the required documents in support of the income earned during the year. The Counsel for the assessee submitted that return will be filed and all related documents will be filed and direction of the authority will be duly complied with.



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

Order pronounced in the open court on 20 / 01 /2026.

Sd/-

**(Dr. A.L. SAINI)
ACCOUNT MEMBER**

Sd/-

**(Dr. DINESH MOHAN SINHA)
JUDICIAL MEMBER**

Rajkot

दिनांक/ Date: 20 / 01 /2026

Copy of the Order forwarded to

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot