

**IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

I.T.A. No.341/SRT/2025 & ITA No. 342/SRT/2025
(Assessment Year: 2012-13)

Riteshkumar Bhupendrabhai Choksi, L-3/29, Western Ellora Park, Housing Board, Near Tejas School, Race Course Road, Vadodara-390023 [PAN : AMZPC 4796 Q]	Vs.	Income Tax Officer, Ward-1(5), Bharuch
(Appellant)	..	(Respondent)
Appellant by :	Shri P.M. Jagasheth, CA	
Respondent by:	Shri Ashish Kumar, Sr DR	
Date of Hearing	19.01.2026	
Date of Pronouncement	19.01.2026	

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-

These two appeals have been filed by the assessee against two separate orders passed by the Ld. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi. One appeal is directed against the order dated 20.01.2025 passed in quantum proceedings arising out of reassessment framed u/s 147 read with section 144 of the Income-tax Act, 1961 ("the Act"), and the other appeal is against the order passed in penalty proceedings u/s 271(1)(c) of the Act for Assessment Year 2012-13.

2. Since both the appeals arise out of the same assessment proceedings, they were heard together and are being disposed of by this common order for the sake of convenience.

I.T.A. No.341/SRT/2025 (Quantum Appeal)

2. The assessee has raised following grounds of appeal:

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"1. The learned NATIONAL FACELESS APPEAL CENTRE [NFAC] /CIT(Appeals) has grievously erred both in law and on facts in upholding legality of reopening of reassessment of assessment u/s 147 of the IT Act ignoring the submissions and legal decisions in which it is held that deposits in bank account is not REASON TO BELIEVE that it is income escaping assessment. It be so held now and as conditions of section 147 are not satisfied, reassessment be held to be invalid and be quashed.

2. The Id NFAC/ CIT(A) further grievously erred both in-law and on facts in not allowing appellants ground number 1 & 2 before him without reasoned order and upholding the legality of reassessment on irrelevant and untenable grounds. It be so held now and reassessment be held to be illegal and without jurisdiction.

3. Without prejudice to the above grounds, the id NFAC/CIT(A) further grievously erred in law and on facts in not properly admitting and considering the evidences furnished with application under rule 464 of IT Rules which were very vital and. significant for decision on the issues before him and disposing of the grounds taken. It be so held now.

4. Without prejudice to the above the Id NFAC / CIT(A) also erred in not appreciating that the credits in the bank account of appellant were fully and properly explained and no such income of Rs. 86,440/- was earned or escaped assessment considering facts and legal position emerging from legal position as submitted to him. The addition of Rs. 21,99,192/- and Rs. 86,440/- made by invoking section 69 of IT Act being patently wrong and untenable be directed to be deleted now.

5. The Id NFAC/ CIT(A) ought to have allowed the appeal by deleting the addition of Rs. 21,99,192/- instead of confirming such erroneous addition on technical grounds ignoring the evidences furnished to the Id AO and before him .It be so held now and additions of Rs. 21,99,192/- and addition of Rs. 86,440/- made by Id AO on wrong basis be deleted now.

6. The Id CIT(Appeals) erred in law and on facts in not properly considering the appellants grounds and detailed submissions in making erroneous conclusion and presumptions that cash deposited / credits in bank account was unexplained to be treated as deemed income It be so held now and addition made be deleted."

3. The brief facts of the case are that the assessee is an individual who, during the relevant assessment year, was employed as a medical representative earning a meagre income which never exceeded the maximum amount not chargeable to tax. The assessment in the case of assessee was reopened by issuance of notice u/s 148 of the Act on the basis of alleged cash deposits in the assessee's bank account. The Assessing Officer proceeded to complete the reassessment u/s 144 read with section 147 of the Act, making additions aggregating to Rs.21,99,192/- on account of cash deposits treated as unexplained u/s 69 of the Act and a further addition of Rs. 86,440/- on account of alleged share trading income.

4. The assessee could not respond effectively to the statutory notices as he did not receive them in time and became aware of the assessment proceedings only subsequently. The assessment order dated 22.11.2019 was served upon him online only on 28.09.2021, after receipt of the penalty order dated 15.09.2021.

5. Before the appellate authorities, the assessee explained that the cash deposits were sourced from withdrawals made from the bank accounts of his uncle, Shri Jayesh Maneklal Choksi, a Canadian citizen and permanent resident of the USA, who had regularly remitted amounts to India, after taxation. Though the assessee furnished confirmations, bank statements, and other supporting documents, including a detailed confirmation letter dated 13.09.2021 from Shri Jayesh M. Choksi, the Ld. CIT(A) dismissed the appeal, primarily on technical grounds.

6. Before us, the Ld. AR reiterated the submissions made before the lower authorities and placed reliance on the confirmation dated 13.09.2021 issued by Shri Jayesh Maneklal Choksi, which categorically confirms:

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- the relationship between the assessee and the remitter,
- the fact of foreign remittances made from post-tax income,
- that the assessee was a mandate holder of the NRE/NRO accounts,
- that cash withdrawals were made for family needs and purchase of property,
- and that certain NEFT transfers were also made directly to the assessee.

Copies of bank statements corroborating the cash withdrawals and deposits were also placed on record.

7. We have carefully considered the rival submissions and perused the material available on record. It is an undisputed fact that the assessee was merely a mandate holder of the bank accounts of his uncle, Shri Jayesh Maneklal Choksi, who is a non-resident Indian with a valid PAN in India. The confirmation letter issued by the uncle clearly establishes the source of cash withdrawals and the purpose for which the funds were utilized. The cash deposits in the assessee's bank account are directly traceable to corresponding cash withdrawals from the bank accounts of the uncle. These transactions are duly reflected in the respective bank statements, which were placed before us. There is no material brought on record by the Revenue to controvert these facts or to establish that the deposits represent the assessee's undisclosed income. Similarly, with regard to the addition of Rs.86,440/- on account of alleged share trading income, the assessee has demonstrated that he had actually incurred a loss of Rs.7,980/-, which is supported by broker statements. In view of the above facts and the documentary evidence placed on record, we are of the considered opinion that the additions made by the Assessing Officer are unsustainable in law as well as on facts.

In the result, the appeal of the assessee in ITA No. 341/SRT/2025 is allowed.

ITA No. 342/SRT/2025

8. The penalty levied u/s 271(1)(c) of the Act is purely consequential to the quantum additions made in the assessment order. Since we have deleted the entire quantum additions while disposing of ITA No. 341/SRT/2025, the very foundation for levy of penalty no longer survives. Accordingly, the penalty levied u/s 271(1)(c) of the Act is hereby deleted and the appeal filed by the assessee in ITA No. 342/SRT/2025 is allowed.

9. In the combined result, both the appeals of the assessee, i.e. ITA No. 341/SRT/2025 and ITA No. 342/SRT/2025, are allowed.

Heard, dictated and pronounced in the open Court today on 19.01.2026

Sd/-

**(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Surat; Dated 19/01/2026

btk

Sd/-

**(DR. B.R.R. KUMAR)
VICE-PRESIDENT**

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, /DR, ITAT, Surat,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

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सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण
ITAT, Surat