

**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. 476/SRT/2025
(Assessment Year: 2011-12)

Shreeji Krupa Co. Op. Housing Society Limited, Plot No.1008/6, New Colony, GIDC, Ankleshwar, Bharuch-393002 [PAN : AAFAS 6681 M]	Vs.	Income Tax Officer, Ward 2(3), Bharuch
(Appellant)	..	(Respondent)
Appellant represented by :	Shri P.M. Jagasheth, CA	
Respondent represented by:	Shri Ajay Uke, Sr DR	
Date of Hearing	23.01.2026	
Date of Pronouncement	04.02.2026	

ORDER

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

Delay condoned.

This appeal has been filed by the assessee against the order dated 08.02.2023 passed by the Ld. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred to as the "Ld. CIT(A)" for short), under Section 250 of the Income-tax Act, 1961 (hereinafter referred to as the "Act" for short) for Assessment Year 2011-12.

2. The assessee has raised following grounds of appeal :-

"1. On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of the Income Tax (Appeals) has erred in confirming the action of the Assessing Officer in reopening the assessment and issuing notice u/s.148 of the Income Tax Act, 1961.

2. On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of the Income Tax (Appeals) has erred in confirming the action of the Assessing Officer in making addition of Rs.20,42,000/- on account of cash deposited in bank account treated as alleged unexplained income. In respect of the cash deposits made in the regular bank account even without considering the fact that said cash deposits have been made only out of capital contribution by the members,

which is absolutely incorrect, erroneous and bad in law and needs to be deleted.

3. On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of the Income Tax (Appeals) has erred in confirming the action of the Assessing Officer in making addition on account of cash deposited in bank account treated as alleged unexplained income in the hands of the assessee without considering the apparent fact that the same is only capital contribution by the members and the same is not at all income is absolute erroneous and bad in law requiring outright annulment.

4. On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of the Income Tax (Appeals) has not offered adequate opportunities to hear and passed ex-parte order, hence, the case may please be set aside and restored back to the CIT(A) or AO for sake of the interest of natural justice.”

3. The brief facts of the case are that the assessee has not filed its return of income for the year under consideration. As per the details available with the Assessing Officer, it was noticed that the assessee had deposited cash amounting to Rs.20,42,000/- in the bank account maintained with the Bharuch Dist. Central Co-operative Bank. The case of the assessee was accordingly reopened and notice u/s 148 of the Act was issued. In response to the notice u/s 148 of the Act, the assessee filed return of income on 11.12.2018 declaring Nil income. Subsequently, the order u/s 143(3) r.w.s. 147 of the Act was passed on 28.12.2018 assessing income at Rs.20,42,180/- by making the addition on account of unexplained cash deposits.

4. Aggrieved by the order of the Assessing Officer, the assessee preferred an appeal before the Ld. CIT(A). The Ld. CIT(A) dismissed the appeal mainly on the ground that the assessee failed to produce documentary evidences such as members' register, confirmations from members, and copies of cash receipts. The relevant observations of the Ld. CIT(A) read as under:-

“6.4 The members register has not been produced. The confirmations from the so-called members who claimed to have given a cash of Rs.20,42,000/- as their contribution to the society and copy of cash receipts for the same has also not been submitted for verification. The onus is on the appellant to

- 3-

explain with documentary evidences its claim that Rs.20,42,000/- is cash introduced by the members as their contribution to the society. However, the appellant has failed to discharge the said onus during the assessment proceedings as well as during the appellant proceedings.

6.5 In light of the above circumstances, it is seen that the Assessing Officer has passed the speaking order, and I have no reason to interfere with it. Therefore, the addition of Rs.20,42,000/- made by the AO is upheld.”

5. At the time of hearing before us, the Ld. AR submitted that the assessee is a co-operative housing society and the cash deposits represented capital contributions from its members collected for acquisition of housing plot. The Ld. AR produced additional evidences before the Tribunal, which were not placed before the lower authorities, namely:

- a) Office Order dated 10.11.2017 issued by Gujarat Industrial Development Corporation (GIDC) evidencing transfer of Housing Plot No. RP-H-1008/6 at Ankleshwar Industrial Estate in the name of Shreeji Krupa Co-op Housing Society Ltd.
- b) Details of members, including their names, PANs, share contribution etc. and total contribution aggregating to Rs.20,53,305/-.
- c) Details of payment made to Navadia Clarify amounting to Rs.20,00,000/- towards purchase of Plot No. 1008/6, Navi Colony, GIDC, Ankleshwar.
- d) Bank statement evidencing debit entry of Rs.20,00,000/- paid to Navadia

The Ld. AR thus submitted that these documents clearly establish the source and utilisation of funds, and therefore the addition is unjustified. It was further contended that neither the Assessing Officer nor the Ld. CIT(A) provided adequate opportunity, and the appellate order was passed *ex parte*.

6. The Ld. DR relied upon the orders of the lower authorities and submitted that the assessee had failed to produce these documents earlier.

7. We have carefully considered the rival submissions and perused the material available on record. It is an undisputed fact that the addition of

- 4 -

Rs.20,42,000/- has been made solely on account of cash deposits in the bank account of the assessee. The consistent stand of the assessee has been that the said cash represents capital contribution from members of the co-operative housing society. Before us, the assessee has produced substantial documentary evidences, including an Office Order from GIDC dated 10.11.2017 evidencing transfer of Housing Plot at Ankleshwar Industrial Estate in the name of Shreeji Krupa Co-op Housing Society Ltd, details of members with PAN, and evidence of utilisation of funds for acquisition of housing plot. These evidences go to the root of the matter and are crucial for determining the true nature of the cash deposits. We also find that these evidences were not examined by the Assessing Officer or the Ld. CIT(A). The Ld. CIT(A) has dismissed the appeal mainly on the ground of non-production of evidences, while at the same time passing the order without granting effective opportunity to the assessee. Therefore, in the interest of justice, we are of the considered view that the matter requires fresh examination by the Assessing Officer after considering all the evidences produced by the assessee. Accordingly, without expressing any opinion on the merits of the case, we set aside the order of the Ld. CIT(A) and restore the matter to the file of the Assessing Officer, who is the primary authority to look into the issue, with a direction to examine the additional evidences, verify the claim of capital contribution by members, and pass a speaking order in accordance with law after providing due opportunity of being heard to the assessee.

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

The order is pronounced in the open Court on 04.02.2026

Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Ahmedabad; Dated 04/02/2026

btk

Sd/-

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

- 5-

आदेश की प्रतिलिपि □ ग्रेषित/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,**

TRUE COPY

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