

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, AHMEDABAD**

**BEFORE DR. BRR KUMAR, VICE PRESIDENT &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.2016/Ahd/2025
(Assessment Year: 2012-13)

Sarfarazkhan Sarvarkhan Pathan, 4, Roshan Park Society, Nr. Sharifabad Society, Sarkhej Road, Ahmedabad-380051	Vs.	Income Tax Officer, Ward-3(3)(5), Ahmedabad
[PAN No.ACRPP5552H]		
(Appellant)	..	(Respondent)

Appellant by :	Shri P D Shah, AR
Respondent by:	Shri C Dharani Nath, Sr. DR

Date of Hearing	04.02.2026
Date of Pronouncement	13.02.2026

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Centre (in short “NFAC”), Delhi vide order dated 25.08.2025 passed for A.Y. 2012-13.

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

“1. That the learned CIT(Appeal)/ National Faceless Appeal Centre, Delhi has erred in law and facts by not quashing the assessment order under section 143(3) rws 147 of the Act, passed by the Ld.AO as the Ld.AO has failed to issue notice u/s 143(2) before passing the assessment order, and the said course of action is against the law and facts, and further the subsequent proceeding of the reassessment is against the law and facts of the case and therefore the Order passed by Assessing Officer is required to be quashed and the ld.AO should be directed the accept the returned income.

2. That the learned AO has erred in law and facts by providing the copy of the reasons for the reassessment and therefore the order passed by the learned AO is bad in law and therefore the order passed by the learned AO is required to be quashed.

3. *That the learned CIT(Appeal)/ National Faceless Appeal Centre, Delhi has erred in law and facts by confirming the addition amount of Rs.47,48,500/- and treated as unexplained money u/s 69A of the Act, and therefore the learned AO should be directed to delete the impugned addition while computing the total income.*

4. *That the learned CIT(Appeal)/National Faceless Appeal Centre, Delhi has erred in law and facts by confirming the addition amount of Rs.6,00,000/- and treated as unexplained cash credit u/s 68 of the Act, and therefore the learned AO should be directed to delete the impugned addition while computing the total income.*

5. *That the learned CIT(Appeal)/ National Faceless Appeal Centre, Delhi has erred in law and facts by confirming the addition amount of Rs.1,35,82,765/- u/s 69 of the Act and treated it as unexplained investment, and therefore the learned AO should be directed to delete the impugned addition while computing the total income.*

6. *That the learned CIT(Appeal)/ National Faceless Appeal Centre, Delhi has erred in law and facts by confirming the addition amount of Rs.36,96,643/- which is purely based on assumption of profit at 12.5% of the entire credit side amount of Rs.2,79,73,149/- of the Kotak Mahindra Bank Ltd. bearing Account No. 524011012343 and therefore, the learned AO should be directed to delete the impugned addition while computing the total income.*

7. *That your appellant craves a leave to add, alter or amend any grounds at the time of hearing.”*

3. The brief facts of the case are that the assessee had not filed his return of income for the Assessment Year 2012-13. On the basis of information received by the Department that the assessee had deposited substantial cash during the financial year 2011-12 and had also made large investments in commodity trading through a broker, the Assessing Officer initiated proceedings under section 147 of the Income-tax Act, 1961 (“Act”). Accordingly, the Assessing Officer issued notice under section 148 of the Act dated 15.03.2019. In response thereto, the assessee filed his return of income on 28.11.2019 declaring a total income of Rs.4,85,950/- which was e-verified on 14.12.2019. During the course of reassessment proceedings, the Assessing Officer issued notices under section 142(1) of the Act asking for details from the assessee regarding cash deposits, bank

statements and sources of investments. However, the assessee repeatedly sought adjournments and furnished the first substantive reply only on 12.12.2019. Since the proceedings were getting time-barred, the Assessing Officer completed the reassessment under section 143(3) read with section 147 of the Act on 17.12.2019 and assessed the total income at Rs.2,24,27,908/-. In doing so, the Assessing Officer made additions of Rs.47,48,500/- as unexplained cash deposits under section 69A of the Act, Rs.6,00,000/- as unexplained cash credit under section 68 of the Act, Rs.1,35,82,765/- as unexplained investment under section 69 of the Act in respect of transactions with Bhargava Lodha Stock Brokers Pvt. Ltd., and Rs.34,96,643/- by estimating income at 12.5% of total bank credits treated as business receipts. The Assessing Officer also initiated penalty proceedings under section 271(1)(c) of the Act.

4. Aggrieved by the assessment order, the assessee preferred an appeal before the Commissioner of Income-tax (Appeals). Before the CIT(Appeals), the assessee raised grounds challenging the additions made by the Assessing Officer on facts and in law, contending that all bank entries were duly recorded in the books of account and that the additions resulted in double taxation. The assessee also sought admission of additional evidence under Rule 46A of the Income-tax Rules and challenged the levy of interest under sections 234A, 234B and 234C as well as initiation of penalty proceedings. During the appellate proceedings, several notices under section 250 were issued. However, except for seeking adjournments on a few occasions, the assessee did not file any written submissions or additional evidence. In the absence of effective

compliance, the CIT(Appeals) proceeded to decide the appeal on the basis of material available on record.

5. In the order passed, the CIT(Appeals) confirmed all the additions made by the Assessing Officer. With regard to the addition of cash deposits of Rs.47,48,500/- CIT(Appeals) held that the assessee had failed to explain the nature and source of the deposits and therefore the addition under section 69A of the Act was justified. The CIT(Appeals) also confirmed the addition of Rs.6,00,000/-, with the CIT(Appeals) holding that mere wrong mention of the charging section would not invalidate the addition and relying on the judgment of the Hon'ble Jharkhand High Court in **Rajmeet Singh v. Income-tax Officer (2024) 160 taxmann.com 83**, the CIT(Appeals) observed that income otherwise taxable cannot escape assessment merely due to an incorrect reference to a provision. The addition of Rs.1,35,82,765/- on account of unexplained investment with the commodity broker was also confirmed on the ground that the assessee failed to furnish any evidence explaining the source of the investment. The estimated addition of Rs.34,96,643/- being 12.5% of bank credits was likewise upheld by CIT(Appeals). The ground relating to double taxation was dismissed for want of any supporting explanation. The request for admission of additional evidence under Rule 46A was rejected as no such evidence was actually filed. The levy of interest was upheld by relying upon the judgment of the Hon'ble Supreme Court in **CIT v. Anjum M. H. Ghaswala (252 ITR 1)** holding that charging of interest is mandatory. The ground relating to initiation of penalty proceedings was dismissed as premature.

6. The assessee is in appeal before us against the order passed by CIT(Appeals) dismissing the appeal of the assessee. Before us, the ld. counsel for the assessee has filed written submissions.

7. We have carefully considered the rival submissions, perused the material available on record and examined the orders passed by the lower authorities. We observe that the reassessment proceedings were completed in haste as the matter was getting time-barred and that the assessee has consistently taken a legal plea that no notice under section 143(2) of the Act was issued before completion of the reassessment. At the same time, we also find that the assessee claims to be in possession of books of account and supporting material explaining the cash deposits, bank transactions and investments, which could not be properly examined by the Assessing Officer due to paucity of time and alleged non-cooperation. We are of the considered view the assessee has also displayed a consistent non-cooperative attitude at all stages of proceedings before Tax Authorities and has not produced any relevant material as called for from time to time.

8. Accordingly, in the interest of justice and to afford one more effective opportunity to the assessee to place all relevant material on record, we deem it appropriate to set aside the impugned orders and restore the entire matter to the file of the Assessing Officer for de novo consideration. The Assessing Officer shall examine afresh the explanations and evidences that may be produced by the assessee in support of his claims. The assessee is directed to cooperate fully and

furnish all details and documentary evidences as may be called for by the Assessing Officer.

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

This Order pronounced in Open Court on 13/02/2026

**Sd/-
(DR. BRR KUMAR)
VICE PRESIDENT**

Ahmedabad; Dated 13/02/2026

TANMAY, Sr. PS

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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, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad