



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

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

**AND**

**DR. DINESH MOHAN SINHA, JUDICIAL MEMBER**

**आयकरअपीलसं./ITA No. 668/RJT/2025**

**Assessment Year: (2009-10)**

Sar Auto Products Limited 50-E, Bhaktinagar Industrial Area, Rajkot – 360002	Vs.	ACIT, Circle – 1(2), 502, Aayakar Bhavan, Race Course Ring Road, Rajkot - 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AADCS0256J</b>		
(Appellant)		(Respondent)

Appellant by : Shri Gaurang Khakhar, Ld. A.R.  
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR  
Date of Hearing : 18/12/2025  
Date of Pronouncement : 12/02/2026

**आदेश / ORDER**

**Per Dr. Dinesh Mohan Sinha, JM:**

Captioned appeal filed by the assessee, pertaining to Assessment Year (AY)-2009-10, is directed against the order passed by the Additional/JCIT Income Tax [(in short “Ld.JCIT”)] vide order dated 12.09.2025, which in turn assessment order passed by Income Tax Department/Assessing Officer under section 143 r.w.s.147 of the Income Tax Act, 1961 (in short “the Act”), vide order dated 16.12.2016.

2. Grounds of appeal raised by the assessee are as follows:

*“1. Double Adjudication: The impugned order constitutes double adjudication on the same cause of action, which is impermissible in law and contrary to the scheme of Sections 246A and 250 of the Income-tax Act, 1961.*

*2. Invalid Exercise of Power: The impugned faceless appellate order has been passed without lawful transfer of jurisdiction u/s 250(6B), as the appeal was not pending on the date of transfer to NFAC.*



*3. Jurisdictional Error: The learned ADDL/JCIT (A)-12, Mumbai has erred in law and on facts in passing the impugned order dated 12/09/2025 when the same appeal for the same Assessment Year had already been disposed of by the jurisdictional CIT (Appeals)-1, Rajkot, vide order dated 18/05/2017, rendering the present order void ab initio and without jurisdiction.*

*4. Violation of the Principle of Finality: The learned ADDL/JCIT (A)-12, Mumbai has grossly erred in entertaining and re- adjudicating an appeal that had already attained finality at the first appellate stage, thereby violating the doctrine of functus officier and judicial discipline.”*

3. Brief facts of the case are that the appellant is a company engaged in the business of manufacturing Auto components, assessed to tax with the Assistant Commissioner of Income Tax, Circle 1(2), Rajkot. For the year under appeal, the appellant company filed its return of income on 29.08.2009 declaring total income of Rs. 11,29,57,760/-. For the year under appeal, the assessment order has been passed u/s. 143(3) r.w.s. 147 of the Income Tax Act, 1961 with the following additions: a. Addition of Rs. 19,00,000 being amount received from Bhumidev Credit Corporation LTD towards unsecured loan treating the same as unexplained cash credit u/s. 68 of the Income Tax Act, 1961 as well as unexplained money u/s 69A of the Income Tax Act 1961. b. Addition of Rs. 7,500 being alleged unexplained expenditure by way of commission for availing above loan from Bhumidev Credit Corporation Limited. The learned Assessing Officer has charged interest u/s. 234B and 234C of the Income Tax Act, 1961 The learned Assessing officer has initiated penalty proceedings u/s 271(1)(c) of the Income tax Act 1961 The appellant, being aggrieved by the said order, has preferred this appeal.

4. That the assessee filed an appeal against the order of AO dated 16.12.2016 before the Ld.CIT(A) which is allowed the appeal of the assessee is reproduced:



*“The Assessing officer has made addition of Rs. 7,500/- as alleged commission paid to middleman for raising unsecured loan. This Addition was made consequential to the addition of Rs. 19,00,000/-u/s 68 of the Income Tax Act in respect of unsecured loan raised during the year under consideration by the Appellant Company from Bhumidev Credit Corporation Limited.*

*As directed above the addition made on account of unexplained cash credit u/s 68 of the Income Tax Act, 1961 is to be deleted, therefore, consequential addition of Rs. 7,500/- is also hereby deleted.*

*In the result, the appeal is allowed.”*

That there is one more order by Additional/JCIT(A)-12 Mumbai, whereby the appeal against the assessment order dated:16.12.2016, stand dismissed by order dated: 12.09.2025

5. That the assessee filed an appeal against the impugned order dated 12.09.2025 passed by the Ld.CIT(A) before this Tribunal.

(i) During the course of hearing, the Ld. AR submitted that the assessee submitted, Jurisdictional Error. The learned ADDI/JCIT (A)-12, Mumbai has erred in law and on facts in passing the impugned order dated 12/09/2025 when the same appeal for the same Assessment Year had already been disposed of by the jurisdictional CIT (Appeals)-1, Rajkot, vide order dated 18/05/2017, rendering the present order void ab initio and without jurisdiction. Violation of the Principle of Finality: The learned ADDL/JCIT (A)-12, Mumbai has grossly erred in entertaining and re-adjudicating an appeal that had already attained finality at the first appellate stage, thereby violating the doctrine of



functus officio and judicial discipline. Double Adjudication: The impugned order constitutes double adjudication on the same cause of action, which is impermissible in law and contrary to the scheme of Sections 246A and 250 of the Income-tax Act, 1961. Invalid Exercise of Power: The impugned faceless appellate order has been passed without lawful transfer of jurisdiction u/s 250(6B), as the appeal was not pending on the date of transfer to NFAC.

(ii) On the contrary, the Ld. Sr. DR for the revenue relied on the order of the Ld.CIT(A). and fairly admitted that the appeal of the assessee for Assessment Year 2013-14 was earlier decided by the CIT(A) -7 vide order dated 23/01/2018.

6. We have heard the rival contention of both the parties and perused the material available on record. The Ld. AR appearing on behalf of the assessee submitted that this appeal by the assessee is against the order of CIT(A) dismissing appeal of the assessee in an ex-prate proceeding. Narrating sequence of events the Ld. Authorized Representative for the assessee.

Assessment Order u/s 143(3) r.w.s 147	16/12/2016
Filing of Appeal before Hon'ble CIT(A)-1, Rajkot	27/12/2016
Hon'ble CIT(A)-1, Rajkot Appeal Order u/s 250	18/05/2017
Appeal effect order by DCIT Circle-1(2), Rajkot	19/06/2017
ADDL / JCIT (A)-12, Mumbai Appeal Order u/s 250	12/09/2025
Filing of Appeal before Hon'ble ITAT Rajkot Bench, Rajkot	18/10/2025



Submitted that against the addition made in assessment order dated 09/02/2016 passed u/s. 143(3) r.w.s. 147 Income Tax Act, 1961 [in short 'the Act'] for assessment year 2009-10, the assessee had filed an appeal before the CIT-1 Rajkot. The said appeal was decided by the Commissioner of Income Tax (Appeals)-1 (in short CIT-1] vide order dated 18/05/2017 for the Assessment Years 2009-10. The said appeal of assessee for Assessment Year 2009-10 was allowed by the CIT-1 Rajkot. The Ld. Authorized Representative for the assessee furnished copy of the order by CIT-1 Rajkot. The Ld. Authorized Representative for the assessee pointed that Addi/JCIT-12 Mumbai has erred in again taking up the appeal that was already decided and pass subsequently order in an ex-prate appellate proceeding. Once the appeal of the assessee for Assessment Year 2009-10 has been decided by the CIT-1 Rajkot, there was no occasion for the Addi/JCIT-12 Mumbai to pass the subsequently order in the same appeal. The Ld. Authorized Representative for the assessee submitted that because of negligence of the Department the assessee is forced into litigation and pay Rs.10,000/- towards filing fee before the Tribunal. The short contention of the assessee is that appeal of the assessee for Assessment Year 2009-10 was adjudicated by the CIT-1 Rajkot vide order dated 16/05/2017 the same appeal of the assessee was again taken up for adjudication in faceless mode by National Faceless Appeal Centre and was decided in an ex-prate appellate proceeding against the assessee. It is absolute slackness on the part of Department to fix an appeal for hearing that has already been disposed of. That ld. DR submitted that the first appeal was decided in physical mode, subsequently, Faceless System of hearing the appeal was introduced for deciding the appeals. That there was a mistake committed in passing the second order dated 12.09.2025. The ld. DR accepted that mistake occurred due to confusion in physical mode to faceless system of hearing.



7. In the result impugned order is set aside and, the appeal of the assessee is allowed.

**Order is pronounced in the open court on 12/02/2026.**

**Sd/-  
(Dr. Arjun Lal Saini)  
Accountant Member**

**Sd/-  
(Dr. Dinesh Mohan Sinha)  
Judicial Member**

Rajkot  
दिनांक/ Date: 12/02/2026

**Copy of the Order forwarded to**

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

//True Copy//

By order

Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot