

**IN THE INCOME TAX APPELLATE TRIBUNAL  
SURAT BENCH, SURAT  
BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT  
Ms SUCHITRA KAMBLE, JUDICIAL MEMBER**

ITA No.815/Srt/2025  
(Assessment Year: 2011-12)

Vallabhbai Dudabhai Chhatrala, 6, Prabhu Darshan Soc. Nr. Dhameliya Nagar, Varacha Road, Rajhans Point, Surat-395006.  [PAN : AEEPC8550 M]	Vs.	The Income Tax Officer, Ward-3(3)(5), Current Jurisdiction, Ward-3(3)(1), Surat-395006.
<b>(Appellant)</b>	..	<b>(Respondent)</b>
<b>Appellant by :</b>	Shri Mehul Shah, AR	
<b>Respondent by:</b>	Shri Ajay Uke, Sr. DR	
<b>Date of Hearing</b>	22.01.2026	
<b>Date of Pronouncement</b>	17.02.2026	

**ORDER**

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

This appeal has been filed by the Assessee against the order dated 27.06.2025 passed by the Ld. Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ("the CIT(A) in short), under Section 250 of the Income-tax Act, 1961 ("the Act"), relating to the Assessment Year 2011-12.

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

1. *On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in confirming the action of Assessing Officer in re-opening assessment u/s. 147 by issuing notice u/s. 148 of the I.T. Act, 1961.*

2. *On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in confirming the action of Assessing Officer in making the addition of Rs. 78,48,900/- u/s 69 of the Act on account of fund utilised for unexplained investment in property.*

3. *It is therefore prayed that the above addition made by the Assessing Officer and confirmed by learned CIT(A) may please be deleted.*

*4. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal.*

3. The assessee is an individual and had filed the original ITR for A.Y 2011-12 on 19.10.2011 declaring total income of Rs.5,55,688/-. An information was received from O/o DDIT (Inv) Unit-1, Surat that the assessee had purchased an immovable property in joint name at Surat, for document value of Rs.1,05,00,000/-. The assessee had 15% share in the property and accordingly he had paid an amount of Rs.15,75,000/- towards his share. An agreement to sell the same property was available on record. As per the agreement, the seller Laxmiben M. patel & 5 other had made an agreement in 2010 with Shankar C Shah & Shri Govindbhai to sell the aforementioned property for a total amount of Rs.6,28,26,000/- Shri Shankar C. Shah had also confirmed the genuineness of sale agreement and the amount of Rs.6,28,26,000/-. But due to unknown reasons, the property was not registered in the name of Shankar C. Shah and Shri Govindbhai but in the name of Shri Vallabhbbhai D Chhatrala and others. Since the property was same, it was not practically possible to sell the property to someone for Rs.6,28,26,000/- in August 2010 and to sell it to some other person for Rs.1,05,00,000/- in August 2011. From the agreement and registered deed, the AO concluded that the differential amount of Rs.5,23,26,000/- was paid by Vallabhbbhai D Chhatrala and 15% of the share works out to Rs.78,48,900/- which was paid as on money. In the ITR for AY 2011-12, it was noted that on money payment of Rs.78,48,900/- was nowhere disclosed. Accordingly, the case was reopened u/s.147 and notice u/s. 148 was issued. In response to notice u/s.148, the assessee owned up his original ITR filed on 19.10.11 as the return filed in response to notice u/s.148. During the assessment proceedings, the assessee failed to submit the details of source of differential funds utilized for investment in property. Therefore differential amount of Rs.78,48,900/- was treated as unexplained investment u/s.69 for AY 2011-12.

4. Aggrieved by the order of the Assessing Officer, the assessee preferred an appeal before the Ld. CIT(A). However, the Ld. CIT(A) confirmed the action of the Assessing Officer on the presumption that the difference between the consideration mentioned in the earlier agreement and the registered sale deed represented cash payment (on-money) made by the purchasers, including the assessee.

5. At the outset, the Ld.Counsel for the assessee fairly submitted that the issue raised by the assessee stands covered by the order of the Tribunal in the case of Shardaben Mansukhlal Pariya in **ITA No.116/Srt/2024 for AY 2011-12 dated 10.04.2024**. For the sake of ready reference, the operative portion of said order is reproduced as under:

- 1. We have considered the rival submission of both the parties and perused the materials available on record carefully. We have also deliberate on various case law relied on by Ld. AR for the assessee. We find that the Assessing Officer made addition in his assessment order by taking view that Department is in possession of a satakhat in respect of the same piece of land, which is duly signed by all the purchasers and sellers and is notarized. It was also held that the assessee has not denied that satakhat was not signed by her or the figure mentioned in the satakhat are true. The Assessing Officer on the basis of language of show cause notice made addition of Rs.65,40,750/-. We find that the assessee right from the beginning demanded the copy of the impugned satakhat and denied her involvement in execution of such satakhat.*
- 2. We find that the Id CIT(A) confirmed the addition by taking view that assessee along with other co-owners purchased the land and there was satakhat executed between owners of the said plot with Shankar Chaganlal Shah and Govind K. Bhadiyadra for a consideration of Rs.6.28 crores and said satakhat was notarized on 16.08.2010. The land was purchased by assessee with other co-owners from Smt. Laxmiben Maganbhai Nathubhai and Sri Balwantbhai Maganbhai Patel and sale deed was executed on 21.10.2011. The sale deed was executed after 10 months from the date of satakhat. The Stamp Valuation Authority valued the said property at Rs.6.32 crores for the purpose of stamp duty. The Ld. CIT(A) was of the view that it is not necessary that assessee should know the satakhat, the important point is that market value of the land was assessed at Rs.6.32 crores by Stamp Valuation Authority for the purpose of registration of sale deed. The Ld. CIT(A) by referring the provision of Section 69 of the Act held that initial burden lies upon the assessee to offer the explanation in respect of unexplained investment which suitable proof. Further, he was of the view that it is the right of Assessing Officer to frame the opinion whether explanation offered by the assessee acceptable or otherwise. The assessee has not filed any explanation of the source of her investment detected by the Department and assessee failed to reply show cause notice except demanding copy of satakhat. The Id CIT(A) also recorded that provision under section*

*56(2)(x)(b) is attracted as the stamp value of such property exceed the sale consideration. Though, neither the impugned addition was converted from Section 69 to 56(2)(x)(b) of the Act or any direction was given. We find that the provisions of section 56(2)(x)(b) was inserted in the statue book from AY 2014-15, thus, no such provisions are applicable on the transaction of assessee. Even otherwise, there is no finding of Id CIT(A) to make addition under section 56(2) (x)(b).*

- 3. So far as finding of lower authorities that they are in possession of a satakat executed by the original owners with Shankar Chaganlal Shah and Govind K. Bhadiyadra for a consideration of Rs.6.28 crores and said satakat was notarized on 16.08.2010, is concerned, the assessee right from the initial stage at the time of filing objection against the reopening demanded the copy of such satakat. The copy of said satakat is neither provided to the assessee, nor the contents thereof was recorded in the assessment order. The assessing officer has not proved the nexus or connection of the assessee with Shankar Chaganlal Shah and Govind K. Bhadiyadra who are the purchaser in the alleged satakat.*
- 4. So far as other observation of Id CIT(A) that the assessee has not proved the source of investment in the land. We find that the assessee in his reply filed before assessing officer vide reply dated 14<sup>th</sup> May 2018 clearly mentioned that assessee jointly purchased immovable property for sale consideration of Rs.1.05 crores. The assessee's share is 12.5% and paid on sale consideration of Rs.13,12,500/- through account payee cheque and same is reflected in the bank statement of assessee with "The Surat People's Co-Op. Bank Ltd." It was also categorically submitted that the assessee or any other co-owners who purchased the said property has not paid any amount over and above the purchase consideration mentioned in the sale deed. Thus, the observation of Id CIT(A) is contrary to the facts available on record. We are conscious of the facts that no such question about the source of investment in the property was raised as no such averment was recorded by the assessing officer in the entire assessment order, yet the assessee while filing her initial reply has already explained the source of her investment in the land.*
- 5. We find that no evidence whatsoever was brought on record to substantiate the allegation that assessee made any on-money or additional money in addition to sale consideration to the seller. Neither the assessing officer examined the seller nor any evidence brought any material on record to substantiate the allegation of additional money / unexplained investment in the land. The Hon'ble Gujarat High Court in PCIT Vs Ganesh Plantation Ltd (supra) held that when the assessing officer initiated reassessment on basis of information that search in case of Venus Group showed that amount of Rs. 4.00 crores had been received by assessee from Builders of Venus Group through banking channel against corresponding payment of unaccounted cash by assessee to Builders, and considered this as accommodation entry and made addition under section 68, since no live link/proximate nexus of alleged dubious transactions between searched person and assessee had been brought on record, said addition was to be deleted. Now again advertng the facts of the case, when no live nexus or link or relation was proved by the assessing officer or the Id CIT(A) that the assessee or other shareholder who purchased the land with assessee has any relation or are the nominee of the original purchaser allegedly shown in the satakat, the addition is merely on the basis of imagination that the assessee has purchased the land at the same price. It is settled position in the law that suspicion however strong may be cannot take place the position of evidence. Thus, in view of the above factual and legal discussion, the ground No. 2 & 3 are allowed.*

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6. *Considering the facts that we have allowed the grounds of appeal which relates to merits of the appeal, hence, adjudication on all remaining grounds of appeal has become academic.*
7. *In the result, the grounds of appeal raised by the assessee is allowed.*

6. In view of the above facts and respectfully following the decision of the Co-ordinate Bench (supra), we hold that the Revenue has failed to bring on record any cogent material or evidence to establish that the assessee had made any payment over and above the consideration recorded in the registered sale deed. In the absence of any change in the factual matrix or the legal position brought to our notice, the appeal of the assessee is allowed.

7. In the result, the appeal of the assessee is allowed.

**The order is pronounced in the open Court on 17.02.2026.**

**Sd/-  
(SUCHITRA KAMBLE)  
JUDICIAL MEMBER**

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

(True Copy)

Surat; Dated 17.02.2026

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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, अधिकरण अपीलीय आयकर ,/DR,ITAT, Surat,
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

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