



IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT
BEFORE DR. ARJUN LAL SAINI, AM.

&

Dr. DINESH MOHAN SINHA, JM

आयकरअपीलसं./ITA No. 555/RJT/2025

निर्धारणवर्ष / Assessment Year: (2017-18)

(Hybrid Hearing)

Kishorbhai Dattani C/o. Sarda & Sarda (CA), Sakar 1st Floor, Dr. Radha-Krishnan Road, Opp. Rajkumar College, Rajkot, Rajkot Gujarat 360001	Vs.	Income Tax office, Hospital Road, Near Rajdhani Hotel, Dwarka, Gujarat 361335
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAKPD7272M		
(Appellant)		(Respondent)

Appellant by : Shri Vimal Desai, Ld. AR
Respondent by : Shri Abhimanyu Singh Yadav Ld. Sr. DR
Date of Hearing : 03 / 11 /2025
Date of Pronouncement : 02/ 02 /2026

आदेश / ORDER

PER, Dr. DINESH MOHAN SINHA JM;

Captioned appeals filed by the assessee, pertaining to Assessment Year 2017-18, is directed against order passed under section 250 of the Income Tax Act, 1961 by National Faceless Appeal Centre (NFAC), Delhi/Commissioner of Income Tax (Appeals), dated 13/08/2025, which in turn arises out of an order passed by the Assessing Officer u/s 147 read with section 144B of the I.T. Act, on dated 28/09/2021.



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

- 1. The reassessment order u/s. 147 r.w.s. 144B of the Act is bad in law.*
- 2. The reopening of assessment u/s. 147 of the Act is bad in law.*
- 3. The learned Assessing Officer has erred in law as well as on facts in making the addition of Rs. 10,00,000/- under section 69A read with section 115BBE of the Act.*

3. Facts of the Case

The appellant is an individual engaged in the business of Wholesaler cum retailer of groceries, household and other items such as various types of grains and beans, various types of edible oils, coconut, cotton seed, cotton seed cake, salt, tea, detergent cake, washing powder, etc.

The return of income for the AY2017-18 was filed on 01.11.2017 declaring total income of Rs 6,87,610/-. That the AO came to know, Shri. Kapil Kishor bhai Dattani the son of the appellant has clearly stated in the statement taken on oath during search proceedings going on 07.12.2016 against Dilip Kumar Dattani that Kishor bhai Dattani Prop. Dattani & Co. has given a loan of Rs. 10,00,000/- in cash to Shri. Dilip R Dattani.

Notice u/s 148 of the Act was issued to the appellant on 04.09.2019 no such ITR has been filed in response to the notice. Subsequently, notice was issued to produce the details and information required in connection with the assessment proceedings. The appellant has explanation for the cash loan given nor furnished any cash flow statement. Hence, the cash loan of Rs. 10,00,000/- advanced by the appellant was treated as unexplained money u/s 69A of the Act. The



AO completed the assessment on the total income at Rs. 16,87,610/- after making the additions of Rs. 10,00,000/-.

4. That the assessee filed an appeal against the order of assessment before Ld. CIT(A), by order dated 13/08/2025 the appeal was dismissed with following observation:

“The appellant has objected to the validity of reopening, inter alia, on the ground that the reasons recorded did not constitute a tangible material leading to the formation of belief that income had escaped assessment. However, I find that the information relied upon by the Assessing Officer was specific and pointed to a transaction (advance of Rs. 10,00,000/-), and thus constituted tangible material for initiating proceedings u/s 147. Further, the reasons were duly recorded and the notice u/s 148 was issued after following the due process of law. The appellant was given opportunity to raise objections, and the same were duly disposed of by the AO. In light of the above, I am of the view that the AO was justified in reopening the assessment based on the material available with him. Accordingly, Grounds No. 1 and 2 are dismissed.

6.2.5 I have carefully considered the assessment order, the assessee's submissions, and the evidence placed on record. The assessee has admitted giving Rs. 10,00,000/- in cash to Shri Dilipkumar Dattani on 06.12.2016. The issue is whether the source of such cash has been satisfactorily explained.

The explanation that the cash was out of business receipts is not supported by contemporaneous evidence sufficient to establish a direct nexus between the specific receipts and the impugned payment. Although confirmations and sales bills have been filed, these are



largely self-serving and prepared after the event. The fact remains that on the date of search, the cash book did not reflect the impugned transaction or corresponding receipts, and the explanation of post-dated recording, though possible in normal circumstances, does not fully discharge the onus under section 69A to prove the source of the asset with credible, verifiable evidence.

Moreover, statements of purchasers recorded by the Investigation Wing did not have supporting books or bills to substantiate the claimed purchases and cash payments.

This weakens the evidentiary value of such statements. The AO has therefore rightly treated the amount as unexplained money within the meaning of section 69A.

Accordingly, the addition of Rs. 10,00,000/- u/s 69A is confirmed, and Ground No. 3 is dismissed.”

5. That the assessee has challenged the legality and validity of the impugned order dated 13.08.2025 by moving of an appeal before this Tribunal.

- (i) The Ld. AR Submitted that the reopening of assessment was on the ground that the loan entry of Rs. 10,00,000/- was not recorded in books, all evidences submitted about loan given to M/s. Dilip R. Dattani. The addition of Rs. 10,00,000/- may kindly be deleted.
- (ii) On the contrary the Ld. DR drawn our attention that the assessment in that loan was given to Dilip R Dattani on 07.12.2016 which was not recorded in books.



The assessee has asked for hearing through video conferencing however the assessee has not avail the opportunity of video conferences. Besides, assessee failed to submit PAN No. therefore, Ld. DR prayed the Bench that matter may be restored to the file of AO for fresh examination.

6. We have heard the rival contention of both the parties and perused the material available on record. We note that information was received that during the F.Y. 2016-17 relevant to A.Y. 2017-18, the son of the assessee, Shri Kapil Kishorbhai Dattani has stated that Dattani and Co. (Prop. -Kishorbhai Dattani) has given a loan of Rs. 10,00,000/- in cash to Sh. Dilip R Dattani during search proceedings. The cash book has been submitted by the Shri Kapil Dattani, son of Shri Kishorbhai Narsibhai Dattani (assessee) on 07/12/2016 for the period from 08/11/2016 to 06/12/2016 during search proceedings. Further no such entry of cash loan was found in the cash book of the Dattani and Co. (Prop. Kishorbhai Narsidas Dattani) as on date of the search i.e 06.12.2016. Shri Kapil Dattani, son of the assessee has stated that Dattani and Co., Proprietor concern of his father has received cash from sale of agriculture product. Shri Kapil Dattani, son of the assessee, has given some name of purchaser in support of cash ie. Haridas Laljibhai, Shri Ram Proteins, Rajesh Dwarkadas etc. The purchasers statements were recorded. No documentary proof of cash payment submitted. A perusal of the ITR of the assessee and balance sheet was made and it was shown Rs.10 lacs as loan to Shri Dilip R Dattani as on 31/03/2017. But no source of cash loan was produced. Hence this amount is unaccounted income of the assessee. The books of accounts manipulated to avoid the payment of tax. The reasons to believe that



Rs. 10,00,000/- has escaped assessment within the meaning of Section 147 of Income tax Act. Accordingly, case reopened. A notice u/s 148 was issued to the assessee on 04.09.2019 the assessee has filed the return of income in response to notice and submitted that the appellant is an individual engaged in the business of Wholesaler cum retailer of groceries, household items etc. The Investigation Wing took a view that the amount of Rs. 10,00,000/- was undisclosed income of Shri Dilip R. Dattani and was accordingly seized by the Department. However, the AO failed to frame an assessment u/s 153A with in due time in the hands of Shri Dilip R. Dattani such assessment year became time-barred.

In the re-assessment proceedings, the appellant furnished the following documents in discharge his onus that the amount advanced to Shri Dilip R. Dattani was duly recorded in the cash books and the same was given out of the opening cash balance and sale proceedings and recorded in the books of accounts of the dates 05.12.2016 & 06.12.2016 and in support of following documents furnish cash book for F.Y. 2016-17. The translated cashbook dated 05.12.2016 and 06.12.2016. detail chart of cash received from our customers on 05.12.2016 and 06.12.2016 persons confirming that they had made payment in cash for the goods purchased from assessee. A copy of the relevant bill or receipt of cash payment. The appellant had also maintained the quantitative details of the items traded in a copy of the stock register of the main items. An addition of Rs. 10,00,000/- was made in the total income of the assessee and the same was approved by Ld. CIT(A) considering following issue:



The denomination of cash seized from Shri Dilip R. Dattani and the cash received by the appellant did not match.

The sum of Rs. 10,00,000/- was not reflected in the cash book whereas the said transaction was recorded in the cash book subsequently submitted during the course of assessment proceedings. The customers failed to give evidence of transaction in terms of cash.

7. That the addition made on account of the denomination of the cash seized and the denomination of the cash received by the appellant do not tally, do not give rise to doubt the genuineness of the transaction. The assessee was regularly maintaining books of account of his regular business operations, the appellant recorded cash sales transactions, and supported by sales bills & entries and cash inflows in books and assessee also maintained stock register. Therefore addition on the basis of variation in currency denominations, is not only illogical but also reflects a lack of appreciation for assessee engaged in trading activities. It was acknowledged in the order that the appellant received cash payments from the customers, while on the other cash loan given to Dilip R. Dattani there was difference in the currency. Drawing adverse conclusions without considering the nature and practical aspects of such business operations. The appellant furnished the cash book and explained to them that the transactions (purchase, sale, receipt, payment, etc.) of a day are recorded by the accountant on the next day. Thus, the cashbook was updated till 05.12.2016 when the same was demanded on 06.12.2016. The entire cash book for FY 2016-17 was submitted during the assessment proceedings by the appellant, in which



the transaction regarding the amount advanced to Shri Dilip R. Dattani was duly recorded.

The allegation of fabrication of the cash book is completely unfounded, as the appellant's explanation where all other transactions of 06.12.2016 were found to be recorded by the Investigation Wing and only one transaction of cash of Rs. 10,00,000/- given to Shri Dilip R. Dattani was not found to be recorded. In fact, all the entries of 06.12.2016 were pending when the cashbook was produced before the Investigation Wing immediately at night on 06.12.2016 and in the morning on 07.12.2016 and this fact was duly explained to the Investigation Wing. The entries for the day of 06.12.2016 and 07.12.2016 were recorded subsequently by the accountant after the cash book was returned to the appellant by the Investigation Wing. No wrong/doubt has been pointed out by investigation wing in the absence of any inconsistency in the books of account and considering the bona fide conduct of the appellant in promptly responding to the summons and disclosing all relevant facts.

The customers of the appellant were summoned and their statements were duly recorded the said customers unequivocally confirmed having made purchases from the appellant and having paid the corresponding consideration in cash, that the appellant had given a detailed clarification in his submission without pointing out any defect in books an addition was made in the total income.

On the one hand, section 145(3) of the Act was not invoked to reject the books of account maintained by the appellant. That the rejection of books of account is a necessary precondition for disbelieving any



component of the books of accounts, as held by various judicial authorities.

That books are regularly maintained and duly audited by Chartered-Accountant are presumed to reflect a true and fair view of financial affairs. An action to consider the books are non-genuine is clearly impermissible in law. The reliance placed on the following judicial pronouncements in support of this contention Gujarat High Court in the case of CIT vs. Jyoti Poly Vinyl Ltd. - judgment dated 09.03.2010 in Tax Appeal No. 452-453 of 2009.

Hon'ble Madras High Court in the case of PCIT vs. Marg Ltd. - 84 taxmann.com 52 [Page No. 442 to 447]

Hon'ble Karnataka High Court in the case of CIT vs. Anil Kumar & Co. - 67 taxmann.com 278 [Page No. 448 to 451]

Hon'ble Pune ITAT in the case of ACIT vs. Intermedia Cable Communication (P.) Ltd. - 19 taxmann.com 190

Hon'ble Raipur ITAT in the case of M/s. Sanjay Agrawal vs. DCIT decision dated 24.09.2021 in ITA No. 339/RPR/2016

Moreover, it is an undisputed fact that cash sales which is the source of the impugned amount of Rs. 10,00,000/- is available in the books of accounts and in the return of income. The addition in total income results in taxing the same income twice (*double taxation).

The appellant relies on Gujarat High Court judgment in the case of Vishal Exports (Tax Appeal No. 2471, 2473, 2475 and 2476 of 2009) cited by the appellant, wherein it was held by the Jurisdictional High Court, in the identical situation as under:



"... The tribunal however upheld the deletion of Rs. 70 lakhs under section 68 of the Act observing that when the assessee had already offered sales realization and such income is accepted by the assessing officer to be the income of the assessee, addition of the same amount once again under section 68 of the Act would tantamount to double taxation of the same income.

Having heard learned council for the parties and having perused the documents on record, we are in agreement with the above view of the tribunal."

The appellant relies the Hon'ble Ahmedabad ITAT in the case of Sanand Textile Industries Ltd - ITA No. 995/Ahd/2014, wherein it was held by the tribunal as follows:

"Admittedly, the amount of sale as claimed by the assessee was offered to tax by reflecting the same in the trading and profit and loss account. This fact has not been doubted by the authorities below. However, the existence of the parties was not proved by the assessee based on the documentary evidence during the proceedings. Accordingly, the learned CIT (A) treated the amount received from such parties as unexplained cash credit under section 68 of the Act. In this connection we note that the impugned amount has been taxed twice firstly the same was treated as sales and secondly the same was treated as unexplained cash credit under section 68 of the Act. Even if we assume that the action of the learned CIT (A) is correct i.e. the impugned amount is representing the cash credit as provided under section 68 of the Act. Then, the learned CIT (A) was duty-bound to reduce the same from the amount of sales as the same does



not represent the sale but unexplained cash credit. As such, the same amount cannot be held taxable twice as per the wish of the learned CIT (A). In our considered view the action of the learned CIT (A) is erroneous to the extent of treating the same as sale proceeds and the unexplained cash credit simultaneously."

The fact remains that the amount advanced was duly recorded in the books of accounts of the appellant, and the source for such advance, being the cash sales, was also recorded. Thus, the same is part of the books of accounts and books of accounts were accepted, by the AO. This being the position, the provision of section 69A cannot be invoked for making the addition since the said section covers in its ambit only those amounts that are unrecorded in the books. The provision of section 69A is reproduced hereunder for ready reference:

"Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year"

Thus, when the transactions are recorded in the books of accounts and the appellant has duly disclosed, the addition thereof cannot be made



u/s 69A of the Act. Reliance is also placed on the decisions where the amount disclosed in books cannot be taxed under section 69A of the Act:

Mumbai ITAT in the case of Arun I. Keshwarni - 151 taxmann.com
355

Delhi ITAT in the case of Nand Kumar Taneja 105 taxmann.com
390

Mumbai ITAT in the case of M/s. Zee Bangles Private Limited - ITA
No. 815/Mum/2022.

Further, the appellant also relies on the decision of the Hon'ble Rajkot ITAT in the case of Manojbhai Arvindbhai Parekh - ITA No. 385/Rjt/2023, where, in an identical factual situation, the cash deposited during the demonetization period was shown to have arisen from cash sales duly recorded in the books of account and held that the books of accounts were not rejected. The ITAT also accepted that the addition resulted in double taxation which was not permissible. Accordingly, the addition was deleted.

In view of the above facts and judicial pronouncements, We allow the appeal of assessee considering the fact that all the books of account along with stock register were produced before the authority and section 145(3) was not invoked, investigation department has not pointed out any defect in books and the statement of purchaser who has confirmed about transaction of cash purchase. Hence the addition of Rs. 10,00,000/- is hereby deleted.



That we have decided the appeal on merit the ground No.1&2, related to reopening of the case does not require any adjudication.

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

Order pronounced in the open court on 02 / 02 /2026.

Sd/-

**(Dr. A.L. SAINI)
ACCOUNT MEMBER**

Sd/-

**(Dr. DINESH MOHAN SINHA)
JUDICAL MEMBER**

Rajkot

दिनांक/ Date: 02 / 02 /2026

Copy of the Order forwarded to

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

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot