

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH

**Before: DR. BRR Kumar, Vice President
And Shri T. R. Senthil Kumar, Judicial Member**

**ITA No: 1806/Ahd/2025
Assessment Year: 2018-19**

Muhammed Arif Shaikh 17 Gulshan-E-Iqbal Soc., Near Haider Nagar, Vejalpur, Ahmedabad Gujarat-380055 PAN: BEWPS0628R (Appellant)	Vs	Asst. Unit Income Tax Dept.(Present Juri-ITO Ward-3(3)(2), Ahmedabad) (Respondent)
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**Assessee Represented: Shri Sulabh Padshah, A.R.
Revenue Represented: Ms. Ketaki Desai, Sr. D.R.**

Date of hearing : 11-02-2026
Date of pronouncement : 25-02-2026

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against appellate order dated 29-07-2025 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), arising out of the reassessment order passed under section 147 r.w.s. 144B of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2018-19.

2. Brief facts of the case that the assessee is an individual and Partner in a firm deriving income from business, remuneration,

interest income and filed his return of income for the Asst. Year 2018-19 declaring total income of Rs.4,38,170/-. The same was processed under Section 143(1) of the Act. Later, information has been flagged in insight portal of the Department, under the category "High risk CRIU/VRU cases" for the financial year 2017-18 in the case of the assessee having traded in cryptocurrency. The information is summarized as under:

"In this case, information was received through insight portal from the DDIT/ADIT(Inv.), 2(1), Ahmadabad in respect of Transaction in Crypto currency. As per information received it is seen that the assessee had made the transactions in crypto currency during various Financial Years, the details of the same is as under:

F.Y. 2016-17		F.Y. 2017-18	
Buy (in Rs.)	Sell (in Rs.)	Buy (in Rs.)	Sell (in Rs.)
1602003	496195	1752838	2901111

2.1. A summons under section 131 was issued seeking details of transactions made in crypto currency, its manner of accounting in his books of accounts and source of funds used for the transactions. However, no response was received from the assessee. Therefore, it was clear that the gains from crypto currency transactions and source of funds for these transactions were not disclosed to the Income Tax Department and not offered to tax for A.Y. 2018-19. Before forming the opinion for issuing the notice under section 148, an opportunity of being heard was provided to the assessee as per provisions of section 148A(b) of the Act to show cause why the transactions may not be treated as escapement of income. However, the assessee failed to explain the above transactions, therefore order u/s.148A[d] of the Act dated 31-03-2022 was passed that unexplained transaction of Rs.46,53,949/-

has escaped assessment and thereby issued notice u/s.148 of the Act dated 05-04-2022 to the assessee.

2.2. In response to the notice, the assessee filed a Return of Income on 20-07-2022 and in response to the notice u/s.143[2] the assessee made reply vide letter dated 12-08-2023 as follows:

“You have further stated that you have received below information regarding trading in cryptocurrency transactions done by me for FY 2016-17 & 2017-18

F.Y. 2016-17		F.Y. 2017-18	
Buy (In Rs.)	Sell (In Rs.)	Buy (In Rs.)	Sell (In Rs.)
16,02,003/-	4,96,195/-	17,52,838/-	29,01,111/-

Thus from the above, it appears that as per the information received by you for both the years, I have entered into transactions of purchase of cryptocurrency for both the years totalling to Rs. 33,54,841/- [Rs. 16,02,003 (FY 2016-17) + Rs. 17,52,838 (FY 2017-18)] Similarly, I have entered into transactions of sale of cryptocurrency for both the years totalling to Rs. 33,97,306/- [Rs. 4,96,195 (FY 2016-17) + Rs. 29,01,111 (FY 2017-18)] In nutshell, the total income I have earned from trading of crypto currency during AY 2017-18 & 2018-19 is Rs. 42,465/- [Rs. 33,97,306 (sales) – Rs. 33,54,841 (purchase)].

Except allegation by way of tabular form as reproduced above, you have not provided me any single details or basis on which you have derived figures purchase and sale of cryptocurrency transactions. Further I have to submit that you have reopened the cases of AY 2017-18 & 2018-19 together relied upon the common information shared by wing and you had formed the common belief for reopening of assessment of both the years. **During course of assessment proceeding for AY 2017-18, you have also not provided me any single details or basis on which, you have derived figures purchase and sale of cryptocurrency transactions. And therefore, just to end up the matter and to avoid any further litigation, I have offered deemed profit Rs. 39,696/- @8% of turnover i.e. Rs. 4,96, 195/- of cryptocurrency transactions made during AY 2017-18, which has been duly accepted by you while framing the assessment for AY 2017-18.** The relevant para 4.3 of assessment order passed for AY 2017-18 is reproduced as under:

"4.3.....The assessee has admitted to selling cryptocurrency worth Rs. 4,96,195/- and purchasing cryptocurrency of Rs. 16,02,003/- during the course of assessment proceedings and has offered the cryptocurrency receipts as business receipts considering the deemed profit @ 8% of receipts i.e. Rs. 39,696/-(8% of Rs. 4,96,195/-).

The assessment is completed by considering the submissions of the assessee and material available on record and the fact that the assessee himself has agreed to the addition of Rs. 39,696/- on account of assuming the profit from cryptocurrency transactions as presumptive income. Thus, an amount of Rs. 39,696/- deemed profit earned from the cryptocurrency transactions is added to the business income of the assessee during the year under consideration. (Addition of Rs. 39,696/-)"

(Copy of order is attached herewith as per Annexure - 1)

Similarly, for the year under consideration, you have not provided me any single details or basis on which you have derived figures purchase and sale of cryptocurrency transactions, and therefore, just to end up the matter and to avoid any further litigation for this year also, I am hereby voluntarily offering you deemed income Rs. 2,32,089/- i.e. 8% of Rs 29,01,111/-, turnover of cryptocurrency transactions made during the year. As the pure trading was done in cryptocurrency transactions and the same has already been verified and accepted by you in AY 2017-18, applying principle of consistency, I hereby kindly request you to consider the deemed profit Rs 2,32,089/- as income earned from sale of cryptocurrency transactions for the year and finalize the assessment accordingly. Kindly appreciate above submission."

2.3. The assessee made further reply vide letter dated 12-08-2023 as follows:

"3. Alternatively, relying upon the information received by you for both the years, I have purchased cryptocurrency for both the years totalling to Rs 33,54,841/- [Rs. 16,02,003 (FY 2016-17) + Rs. 17,52,838 (FY 2017-18)] and similarly, I have sold cryptocurrency for both the years totalling to Rs. 33,97,306/- [Rs. 4,96,195 (FY 2016-17) + Rs. 29,01,111 (FY 2017-18)] Thus, in fact and as per the information you relied upon, I have earned from trading of crypto currency during AY 2017-18 & 2018-19 totalling to Rs. 42,465/- (Rs. 33,97,306 (sales of cryptocurrency) – Rs. 33,54,841 (purchase of cryptocurrency)), against which I have already offered Rs. 39,696/- as Income from trading of crypto currency for AY 2017-18 and now offering Rs. 2,32,089/- for AY 2018-19, which are much more higher than the income actually earned by me from trading of crypto currency during these years.

4. Further I have to submit that you have reopened the cases of AY 2017-18 & 2018-19 together relied upon the common information shared by wing and you had formed the common belief for reopening of assessment of both the years. **It is also surprising that without having above basic details such as Crypto Currency Name, details of broker, Date of purchase/sale, Quantity, Amount of each transaction etc how it is**

possible to conclude about escarpment of income on part of assessee. At present, it clearly appears that you do not have any specific information, on basis of which, you can allege about escarpment of income. Also, to end up the litigation, we have already offered income of Rs. 2,32,089/- applying presumptive provisions of Income Tax Act, 1961.

In view of above submission, I kindly request you to restrict proposed addition to Rs. 2,32,089/- as income earned from sale of cryptocurrency transactions for the year and finalize the assessment accordingly. Kindly appreciate above submission.”

2.4. Though the above submissions of the assessee are reproduced in the reassessment order, but the Ld. AO held that the assessee failed to explain the source of buying of crypto currencies amounting to Rs.17,52,838/= therefore made addition u/s.69C of the Act and also estimated at 8% i.e. Rs.2,32,089/= as the sale proceeds from crypto currencies transaction of Rs.29,01,111/= and demanded tax thereon.

3. Aggrieved against the reassessment order, the assessee filed an appeal before Ld CIT[A] who confirmed the additions made by the AO by observing as follows:

“ ... 5.1. On perusal of the assessment order and the case records, it is evident that the case was reopened under section 147 on the basis of credible information received through the Insight portal and the Investigation Wing, Ahmedabad, regarding high-value transactions in crypto currency by the assessee during the financial year 2017-18. The AO recorded reasons for reopening, complied with the mandate of section 148A, and duly issued notices under sections 142(1), 143(2), and 144B. Despite multiple opportunities, the assessee did not furnish complete details regarding crypto currency transactions. In particular, the assessee failed to provide the exchange-wise purchase and sale data, names of crypto currencies traded, details of brokers, and sources of investment in purchase of

crypto currencies, even though such details were specifically sought through detailed questionnaires.

5.2. The assessee did admit to crypto currency trading and offered a presumptive income of Rs. 2,32,089/- on the declared turnover of Rs. 29,01,111/-, which the AO accepted. However, the source of the cryptocurrency purchases of Rs.17,52,838/-remained unsubstantiated and unexplained. The assessee's mere assertion that the purchases were made from previous sales proceeds is uncorroborated and lacks any documentary evidence, such as trading ledgers, broker account statements, or bank account trail linking the purchases and sales.

.....

5.5. Moreover, the AO has taken a consistent stand by invoking section 69C and applying the special tax rate under section 115BBE, which is statutorily mandated. There is no infirmity in invoking section 115BBE on income deemed under section 69C, as affirmed in CIT v. Fakir Mohmed Haji Hasan [2001] 247 ITR 290 (Guj), where it was held that unexplained cash credits or unexplained investments are deemed to be income and subject to higher rate of taxation.

5.6. In conclusion, considering the factual matrix, the legal position, and the conduct of the assessee, it is clear that the addition of Rs.17,52,838/- made under section 69C is based on sound reasoning and valid application of law. The AO has judiciously exercised discretion, provided due opportunity, and followed due process. No infirmity is found in the assessment order. The assessee, having failed to pursue the appeal with seriousness and not having submitted any evidence, is not entitled to any relief. Accordingly, all grounds of appeal raised by the assessee are dismissed. The addition made by the AO is upheld in full."

4. Aggrieved against the appellate order, the assessee is in appeal before us raising the following Grounds of Appeal:

1. The Ld. Assessing Officer has erred in law and on facts in reopening the case of the Appellant Invoking provisions of Section 147 and 148 of the Act. On facts and circumstances of the case, there is not at all any escarpment of income on part of Appellant. It is therefore submitted that the whole reopening of assessment is bad in law and void ab initio and the order passed u/s 144 r.w.s. 147 of the Act be quashed and set aside accordingly.

2. The Learned CIT (Appeals) has erred in law and on facts in confirming the action of A.O. reopening of appellant's case relying upon the incomplete information received from the Investigation Wing. It is submitted that the information received did not contain any information about Crypto Currency Name, details of broker, Date of purchase/sale, Quantity, Amount of Gain/Loss incurred etc. and without any further independent exercise or application of mind, the Ld. AO has reopened the case. Thus the addition made relied upon incomplete information is incorrect both on facts as well as on law and the same be deleted accordingly.

3. The Learned CIT (Appeals) has erred in passing an Ex-parte order and dismissing the appeal of the Appellant without appreciating the facts and circumstances of the case. It is submitted that the responses could not be filed before CIT(Appeal) due to circumstances beyond the control of the Appellant. In view of this, the CIT (Appeal) please be directed to hear the appellant again and the additions made kindly be deleted after fresh verification of details and evidences.

4. The Learned CIT (Appeals) has erred in upholding the addition made by AO of Rs. 17,52,838/- treating the same as Unexplained expenditure u/s 69C of the Act. It is submitted that on facts and circumstances of the case, the provisions of Section 69C of the Act are not just attracted in case of Appellant and thus impugned addition made Rs. 17,52,838/- wrongly treating it as Unexplained expenditure on account of source of purchase of Crypto Currency be deleted.

5. The Learned CIT (Appeals) has erred in confirming the addition of Rs.17,52,838/-without appreciating the submission filed by Appellant during course of Assessment proceeding. It is submitted that the Appellant's case has been reopened for AY 2017-18 & 2018-19 together relied upon the common information shared by wing and therefore once Learned Asst. Unit itself has concluded assessment for AY 2017-18 determining income applying presumptive provisions in absence of further

information, the same principle is ought to have been followed for AY 2018-19 also. On facts and circumstances of case, the addition made Rs.17,52,838/- u/s 69C is completely illegal and unjustifiable and the same be deleted.

6. The Learned CIT (Appeals) has erred in confirming the addition of Rs.17,52,838/- without appreciating the facts of case. It is submitted that once Learned Asst. Unit has accepted and added the income of Rs.2,32,089/- towards Crypto Currency Transactions offered by the Appellant following presumptive provisions, there is no room for separate addition treating the purchase of Crypto Currency as Unexplained expenditure u/s 69C of the Act. In view of this also, the addition of Rs.17,52,838/- being incorrect and illegal deserves to be deleted.

7. The Learned CIT (Appeals) has erred in facts as well as on law in confirming the levy of tax u/s 115BBE of the Act. It is submitted that on facts and circumstances of the case, the provisions of Section 69C and Section 115BBE of the Act are just not applicable in case of Appellant. Therefore the incorrect demand raised levied tax at special rate provided u/s 115BBE of the Act is incorrect and the same be deleted. The same be held now.

8. The order passed by the Ld. CIT(A) is bad in law and contrary to the provisions of law and facts. It is submitted that the same be held so now.

5. Ld. Counsel for the assessee in support of its grounds submitted that the assessing officer is not correct in making addition of Rs.17,52,838/- as unexplained expenditure on account of source of purchase of crypto currency. But the very same assessment unit in the case of the assessee for the earlier Asst. Year 2017-18 accepted the presumptive deemed profit at 8% of the sale of 4,96,195 crypto currencies relevant to the Financial Year 2016-17 which was also reopened by issuing notice u/s. 148 of the Act. When the assessing officer accepted profit from crypto currencies transactions as presumptive income of Rs.39,686/-, the same ought to have been

adopted for the subsequent Asst. Year namely 2018-19 wherein assessee has offered deemed income of Rs.2,32,089/- being 8% of Rs.29,01,111/- of the crypto currencies sold by the assessee during the current assessment year.

5.1. Ld. Counsel further submitted that in fact the assessee has earned a net trading income of Rs.42,465/- by purchase and sale of crypto currencies for the two assessment years. However to avoid any further litigation, assessee offered presumptive profit at 8% for both the assessment years. The assessing officer is not correct in making addition of Rs.17,52,838/- as unexplained expenditure u/s. 69C of the Act for the Asst. Year 2018-19. Ld.Counsel also produced before us the notices issued by the Revenue and the assessment order dated 28-04-2023 passed in assessee's own case for the earlier assessment year 2017-18 and requested to delete the addition made by the assessing officer.

6. Ld. D.R. appearing for the Revenue supported the orders passed by the Lower Authorities and requested to sustain the addition made by the lower authorities.

7. We have given our thoughtful consideration and perused the materials available on record including the Paper Book filed by the assessee. It is undisputed fact that the reassessment notices were issued for two assessment years namely 2017-18 and 2018-19 on the sale of crypto currencies by the assessee. In response to 148 notice, assessee filed Return of Income disclosing 8% presumptive income on the sale of crypto currencies by the assessee for both the assessment years namely Rs.39,696/- for Asst. Year 2017-18 and

also Rs. 2,32,089/- on sale of crypto currencies of Rs. 29,01,111/- for the Asst. Year 2017-18. Ld. A.O. vide reassessment order dated 28-04-2023 accepted the returned income filed by the assessee for the Asst. Year 2017-18 and no addition made on account of purchase of crypto currencies. Whereas for the next assessment year 2018-19, the assessee was required to explain the source of purchase of crypto currencies and made addition u/s. 69C of the Act. We also notice both the reassessment orders were passed by the very same assessment unit of Income Tax Department. Thus inconsistent stands are taken by the Revenue in assessee's own case in two different assessment years, which in our considered view is not proper and against the provisions of law.

8. Further while reopening the assessment, the Revenue claimed that it had information of buying and selling of crypto currencies by the assessee for Financial Years 2016-17 and 2017-18. There is no details such as crypto currencies name, details of broker, date of purchase/sales, quantity and amount of such transaction. However to buy peace with the department, the assessee offered presumptive tax profit at 8% on the sale value of the crypto currencies for both the assessment years. Against which for the first assessment year vide order dated 28-04-2023, the assessment unit has accepted the returned income, whereas for the next assessment year very same assessment unit making addition of Rs.17,52,838/- as unexplained income which is clearly unjustifiable and without assigning reasons thereof. Therefore in our considered view, the additions made by the lower authorities

u/s. 69C is liable to be deleted and the grounds of appeal raised by the assessee are allowed.

9. In the result, the appeal filed by the Assessee is hereby allowed.

Order pronounced in the open court on 25 -02-2026

Sd/-

(DR. BRR KUMAR)

VICE PRESIDENT *True Copy*

Ahmedabad : Dated 25/02/2026

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

Sd/-

(T.R. SENTHIL KUMAR)

JUDICIAL MEMBER

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद