

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "D" BENCH

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

**ITA No: 1957/Ahd/2024
Assessment Years: 2017-18**

Income Tax Officer Ward-1(2)(1), Vadodara (Appellant)	Vs	Amit Jayantibhai Patel 29, Shree Krushna Kunj Society, Jetalpur Road, Alkapuri, Vadodara, Vadodara-390007 Gujarat PAN: AFWPP3570K (Respondent)
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**Assessee Represented: Shri Parin Shah, CA
Revenue Represented: Shri Rameshwar P Meena, Sr.D.R.**

Date of hearing : 09-02-2026
Date of pronouncement : 27-02-2026

आदेश/ORDER

PER: T.R. SENTHIL KUMAR, JUDICIAL MEMBER

This appeal is filed by the Revenue as against the appellate order dated 09-09-2024 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.ws. 144B of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2017-18.

2. Brief facts of the case is that the assessee is an individual deriving income from commission and capital gain. The assessee has not filed the Return of Income for the Asst. Year 2017-18. Since there was purchase and sale of immovable properties and cash deposits, the assessment was reopened by issuing notice u/s. 148 of the Act on 28-07-2022.

2.1. In response, the assessee filed Return of Income. The assessing made the following additions:

(a) Addition on account of unexplained money u/s. 69A of Rs.20,20,950/-

(b) Addition on account of unexplained investment u/s.69 of Rs.99,30,528/-

(c) Addition on account of Short Term Capital Gain of Rs.14,76,124/-

3. Aggrieved against the reassessment order, assessee filed an appeal before Ld. CIT(A) who deleted the additions by observing as follows:

(a) Addition on account of unexplained money u/s. 69A of Rs.20,20,950/-

“During the appellate proceedings, the appellant at the outset submitted that he had filed all the requisite details and explanation to the Ld. AO but he has not considered the same and carried out addition. The appellant once again filed copy of cash book at the appellate level and mentioned that source of brokerage was deal of 'sale of land'. The appellant also stated that he has already offered said brokerage to income tax and thus the same shall not be taxed again.

The contention of the appellate are considered and found to be acceptable. The monthly cash summary provided by the appellant is re-produced hereunder:

Particulars	Cash Amit Patel 1-Apr-18 to 31-Mar-17		Closing Balance
	Transactions		
	Debit	Credit	
Opening Balance			286800.00 Dr
April	250000.00	48000.00	488800.00 Dr
May	785000.00	622373.00	651427.00 Dr
June	15000.00	475000.00	191427.00 Dr
July	520000.00	200000.00	511427.00 Dr
August	84000.00		595427.00 Dr
September		100000.00	495427.00 Dr
October	580000.00	400000.00	675427.00 Dr
November	60000.00	572000.00	163427.00 Dr
December		45000.00	118427.00 Dr
January	5000.00		123427.00 Dr
February		57000.00	66427.00 Dr
March		51000.00	15427.00 Dr
Grand Total	2299000.00	2570373.00	15427.00 Dr

Apart from above, the appellant has filed a detailed chart explaining the source of cash deposited on each of the date. On perusal of the said chart, it is clear that the appellant has deposited cash out of previously with drawn cash. Having regard to this, the re-deposit of cash cannot be considered to be fresh cash unless the Ld. AO has found out with evidence that the appellant generated cash from any other source.

The cash book clearly depicts the nature of transaction and in absence of rejection of books of account being done by Ld. AO, there is no reason for no accepting the cash book entries.

It is settled position that the onus is upon the appellant to prove genuineness of each and every transactions entered into. In land mark cases like Kale Khan Mohammad Hanif v CIT[1963] 50 ITR 1 (SC), Roshan Di Hatti v CIT [1977] 107 ITR (SC) it has been held that the law is well settled that the onus of proving the source of a sum of money found to have been received by an appellant, is on him. Where the nature and source thereof cannot be explained satisfactorily, it is open to the revenue to hold that it is the income of the appellant and no further burden is on the revenue to show that the income is from any particular source.

In view of the above, I am of the considered opinion that the in the impugned case the appellant has very well discharge his onus to explain source of cash and the appellant has also offered the brokerage income to tax. The Ld. AO has not brought any alternate source of cash belonging to appellant which is contradictory to appellant's explanation. The cash book filed by the appellant very well explains the source of cash and without rejecting books of account of the appellant with valid reason, treating cash deposit as unexplained money

is not justified. Thus, invoking section 69A does not appear to be correct in the underlined case and the addition carried out by the Ld. AO is being deleted.

Accordingly, ground no. 1 of the appeal is allowed.”

(b) Addition on account of unexplained investment u/s.69 of Rs.99,30,528/-

The contention of the appellant are considered and found to be acceptable. I have perused the documentation filed by the appellant and following remark are being made in case of major lenders:

Name	Amount lent to appellant	Remarks
Gaurang Mahendra Bhrahmbhatt	1,61,000	Returned Income is 6.7 lacs and accounts are audited
Kusum Hasmukh Wadiwala	1,73,200	Had balance of Rs.2.68 lacs from 07.02.2017 and loan given on 17.10.16 and No cash deposited in account for granting loan
Manish Patel	2,00,000	Had balance of Rs.2.00 lacs from 3 oct and loan given on 17.10 and No cash deposited in account for granting loan
Rajdeepsingh Jhala	3,00,000	Business Income of Rs.4.61 lacs and No cash deposited in account for granting loan
Sanjay Gandhi	3,50,000	Returned Income is 5.22 tacs and had opening balance in bank statement as on 1.4.2016 of Rs. 13.73 lacs
Shreeji Developers	1,14,000	Partership firm with returned income of Rs.7.67 lacs
Gohil Mahipalsinh bhupendrasinh prop. MAA Enterprise	2,71,000	Returned Income 7.30 lacs and had sufficient balance in the bank account
Vinodbhai Jethabhai Leauwa	1,20,000	Returned business income of Rs.2.49 lacss
Shreeji Construction	3,50,000	Returned business income Rs.6.58 lacs. Annual accounts filed where the accounts are audited
Yuvraj Kumar Gajendrasinh Zala	12,84,000	Returned business income Rs.4.42 lacs. As per ITR filed, Plus Exempted income from partnership firm is Rs.33.38 lacs

From the above chart, the lenders are found to have sufficient funds to lend meagre amount to the appellant and the said lending are backed by confirmation and being routed through the banking channel.

Further, reference is made to following judicial precedents

Hon'ble ITAT Delhi in case of DCIT Vs Sukhbir Shokeen [ITA No. 1477/Del/2020] has held that addition u/s 69 of the Income Tax Act towards unexplained investment untenable as source of investment made by the appellant stands sufficiently explained.

In view of the above, I am of the considerate opinion that the appellant has very well recorded the investment in books of accounts and has accorded sufficient explanation towards source of funds utilised to purchase the property. Therefore, invoking provision of section 69 of IT Act is found to be incorrect and the addition carried out by the Ld. AO for sum of Rs.99,30,528/- is deleted.

Accordingly, ground no. 2 of the appeal is allowed.

(c) Addition on account of Short Term Capital Gain of Rs.14,76,124/-

"The appellant submitted that he along with its partners of the land had sold property worth Rs.1,00,00,000/- and appellant share was for Rs.28,33,000/. The total purchase cost of underlined property was Rs.74,91,790/- wherein the appellant also had entered into Agreement of consent (Samathi Karar) for which Rs.28,25,000/-and Rs.23,25,000/- was also made and paid by all the partners in their share."

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Thus, the purchase total cost comes to Rs.74,91,790/-(Rs.22.11/- lacs plus Rs.28.25/-lacs plus Rs.23.25/- lacs plus stamp duty of Rs.1.08/- lacs plus registration charges of Rs.0.23/-lacs) and accordingly appellant's share comes to Rs.21,22,424/-. The appellant had accordingly shown short term capital gain of Rs.7,30,500/-.

The copy of purchase deed is perused along with Agreement of consent (Samathi Karar) and the contention of the appellant was found to be correct. Accordingly, the stand of Ld. AO is found to be incorrect and the recomputation of additional short term capital gain to the tune of Rs.14,76,124/- made by Ld. AO is being deleted.

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

i) "On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition of Rs.20,20,950/ on account of unexplained money u/s 69A of the Act without appreciating the fact that the assessee failed to explain the true nature and source of cash deposit.

ii) "On the facts and circumstances of the case and in law, the Ld.CIT(A) erred in deleting the addition of Rs.99,30,528/ on account of unexplained investment u/s 69 of the Act without appreciating the fact that assessee failed to provide the source of entire investment of Rs.99,30,528/--

iii) "On the facts and circumstances of the case and in law, the Ld.CIT(A) erred in deleting the addition of Rs.14,76,124/-on account of STCG without appreciating the fact that assessee failed to provide proof of payment made for the agreement of consent.

iv) The appellant craves leaves to add, modify, amend or alter any grounds of appeal at the time of, or before, the hearing of appeal.

4. In support of the Grounds of Appeal, Ld. Sr. D.R. appearing for the Revenue requested to uphold the additions made by the assessing officer and allow the Revenue appeal.

5. Per contra, Ld. Counsel appearing for the assessee submitted before us a Paper Book containing monthly cash summary with cash book, unsecured loans taken with the identity, creditworthiness and genuineness of transaction, Purchase Deed along with Agreement of Consent for transfer of property.

6. We have perused the same and heard rival submissions. As far as the addition on account of unexplained money, Ld. CIT(A) considered the cash book and also noted that the assessee has offered the commission income of Rs.4,00,000/- during the assessment year and the source of cash deposit and withdrawal as explained by the assessee. Thus Ld. CIT(A) deleted the addition since the assessing officer has not rejected the books of accounts with valid reasons. Therefore the findings arrived by Ld. CIT(A) does not require any interference and the Ground No. 1 raised by the Revenue is hereby dismissed.

7. Regarding Ground No. 2 addition of Rs.99,30,528/- on account of unexplained investment u/s. 69, the Ld. CIT(A) has verified the creditworthiness and genuineness of the transactions of the loans given to the assessee by ten parties which are recorded in the books of account which is utilized for purchase of property their creditworthiness is also discussed in the CIT(A) order. Thus the assessing officer is not correct in invoking provisions of Section 69 of the Act and rightly deleted the addition.

7.1. Further Revenue could not place any contrary facts on the above findings of Ld. CIT(A). Therefore the above finding of Ld. CIT(A) does not require any interference. Thus Ground No. 2 is hereby dismissed.

8. Regarding Ground No. 3 addition of Rs.14,76,124/- on account of Short Term Capital Gain, the assessee placed on record the Agreement of Consent. Ld.CIT(A) considered the Purchase Deed as well as the Agreement of Consent, thereby deleted the addition made on this account. Revenue could not place any contrary evidences on record to sustain the addition made by the A.O. Therefore, we do not find any infirmity in the order passed by Ld. CIT(A) and Ground No. 3 is dismissed.

9. In the result, the appeal filed by the Revenue is hereby dismissed.

Order pronounced in the open court on 27 -02-2026

Sd/-
(DR. BRR KUMAR)
VICE PRESIDENT *True Copy*
Ahmedabad : Dated 27/02/2026

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

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.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद