



**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. 743 & 744/RJT/2024**

**Assessment Year: (2018-19 & 2020-21)**

DCIT, Central Circle – 1, Amruta Estate, 2 <sup>nd</sup> Floor, MG Road, Rajkot - 360001	Vs.	Jagjivan Ranchhodbhai Sakhiya 6-A, Nakshatra Appartment, Shree Colony Main Road, B/H Panchayati Commu. Hall, Rajkot-360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AFLPS5842L</b>		
(Appellant)		(Respondent)

**Appellant by** : Shri Mehul Ranpura, Ld. AR  
**Respondent by** : Shri Sanjay Punglia, Ld. CIT(DR)  
**Date of Hearing** : 10/12/2025  
**Date of Pronouncement** : 09/03/2026

**आदेश / ORDER**

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

Captioned two appeals filed by the department, pertaining to Assessment Years (AYs) 2018-19 & 2020-21, are directed against the separate orders passed by the Learned Commissioner of Income Tax(Appeals), in short “the Ld. CIT(A)”, dated 05.08.2024, which in turn arise out of separate assessment orders passed by Assessing Officer (in short “the AO”) u/s 147 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), vide order dated 11.04.2023.

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

*“1. On the facts and in the circumstances of the case and in law the Ld.CIT(A) has erred in deleting the protective addition of Rs.1,84,99,937/- made on account of unaccounted expenses u/s. 69C r.w.s. 115BBE of the Income Tax Act.*



*2. The revenue craves leave to add, alter, amend and or substitute any or all of the grounds of appeal. ”*

3. Brief facts of the case that the assessee has filed his return of income for the year under consideration on 10-10-2018 declaring total income at Rs. 54,71,210/- which consisted of Salary of Rs. 21,00,000/-, Long Term Capital Gain of Rs. 34,95,274/-, Other income of Rs. 66,940/- and deduction as per Chapter VI-A of Rs. 1,91,000/-. On 27-09-2021, the income of the assessee has been assessed at Rs. 7,29,10,595/-. A Search, Seizure and Survey action was carried out by the office of DDIT (Inv.), Unit-1, Rajkot in the case of leading real estate builders of Rajkot and their key associates on 24.08.2021. Four different groups were covered in the operation including R K Group (Sonwani Family). All the four groups are in the business of real estate and are mainly concentrated in and around Rajkot. A total of forty-three (43) premises were covered, out of which 32 premises were covered under section 132 of the Income Tax Act 1961 and the other 11 premises were covered u/s 133A of the Income Tax Act 1961. The premises covered were a mix of residential and business premises of their related entities, their family members, key associates and employees. Hence, looking to the overall facts of the case, the sources of shortage of the funds (being excess expenses incurred) to the extent of Rs. 10,47,22,650/- remains unexplained in the hands of the assessee-firm. Accordingly, Rs. 10,47,22,650/- being unexplained sources of expenses is being treated as deemed income in the hands of the assessee firm for the year under consideration (Substantively) and in the hands of the respective partners in proportion of their unexplained shares (Protectively) i.e., Shri Harish Lakhani (Rs. 29,72,997/-); Shri Darshan Lakhani (Rs. 2,77,49,906/-); Shri Atul Ganatra (Rs. 5,54,99,811/-); Shri Jagjivan Sakhia (Rs. 1,84,99,937/-) for the year under consideration within the meaning of section 69C r. w. s. 115BBE of the Act.



4. Accordingly, in view of the above remarks from the assessment order of the firm M/s Titanium Buildcon LLP protective addition of (Rs. 3,59,44,575/- + Rs. 3,14,94,810/- = Rs. 6,74,39,385/-) in the return of income and the total income was assessed at Rs. 9,14,10,532/- is made in the hands of the assessee within the meaning of section 69C r.w.s. 115BBE of the Act.

5. The transactions pertaining to the assessee have been gathered from the seized material during the search operation, a notice under section 148 of the Act has been issued on 25-08-2022 to the assessee after following due procedure as per the Act and with prior approval of the specified authority as per section 151 of the Act. In response to the notice issued under section 148, the assessee has filed an Income tax return on 26-09-2022. Subsequently, a notice u/s 143(2) of the Income-tax Act has been issued and served on 18-12-2022 on the e-filing portal of the Assessee. Subsequently, notices u/s 142(1) have been issued from time to time seeking primary as well as further details from the assessee for carrying out the assessment. The objections raised by the assessee against initiation of proceedings u/s 148 of the Act have been disposed of and the images of original seized material pertaining to the assessee have been supplied and discussed in the notices issued u/s 142(1) of the Act from time to time.

6. That the assessee filed an appeal against the order of the AO, before the Ld.CIT(A). that the Ld.CIT(A) partly allowed the appeal of the assessee, observing as follows:

*“7.14 In this regard, it is relevant to mention that the undersigned has adjudicated the appeal in the case of Titanium Buildcon LLP for the said land and deleted the addition made on account of unexplained expenses u/s.69C of the Act vide appeal no. CIT(A), Ahmedabad-11/11149/2017-18 dated 26/06/2024.*

*7.15 Since, the undersigned has deleted the substantive addition made by the AO on account of unaccounted cash payment for purchase of land for Rs. 10,47,22,650/- in the hands of Titanium Buildcon LLP, on merit, therefore, the protective addition made for the share of the appellant does not survive.*



*7.16 In view of elaborate discussion, the addition made by the AO on account of unaccounted cash payment for purchase of land for Rs.1,84,99,937/- is deleted. Thus, the ground of appeal no. 6 is allowed.*

*8. The ground of appeal no. 7 is against initiation of penalty proceedings u/s. 271AAC of the I.T. Act being premature is not entertained and is dismissed.*

*9. The ground of appeal no. 8 is against the AO charging interest u/s.234A, 234B & 234C of the Act. Since charging interest is mandatory in nature, this ground of appeal is dismissed.*

*10. In the result, this appeal is partly allowed.”*

7. That the department filed an appeal against the impugned order dated 05.008.2024 before this Tribunal.

8. During the course of hearing, the Ld.DR for the revenue submitted that the addition on account of unaccounted expenses was deleted by first appellate authority amounting to Rs. 1,84,99,937/- .

9. On the other hand, the Ld.AR of the assessee relied on the order of the Ld.CIT(A).

10. We have heard both the parties and perused the material available on record and perused the impugned order dated 05.08.2024. We note that AO made an addition u/s. 69C of the Act on account of the expenses being shortage of fund (excess expenditure) in the hand of the assessee which remain unexplained on proposition of their unexplained share i.e., Rs. 1,84,99,932/- for the assessee. However the Ld. CIT(A) has deleted the addition on the ground that addition on protective basis since substantial income taken into consideration in the hand of that Titanium Buildcon LLP since expenses related to land and the land belong to Titanium Buildcon LLP. We are of the view that matter is to be set aside and proceeding restore before the AO with the direction to examine that whether this amount of Rs. 1,84,99,937/- has been added in the hands of the Titanium Buildcon LLP, and adjudicate the matter in accordance with law, after giving due opportunity of being heard to the assessee.



**ITA No. 744/Rjt/2024 for AY 2020-21:**

11. The similar issue involved in the appeal filed by the department in ITA No. 744/Rjt/2024 and the same is disposed of in the same term, in accordance with law.

12. In the result, both the appeals of the revenue, are dismissed.

**Order is pronounced in the open court on 09/03/2026.**

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

Rajkot

दिनांक/ Date: 09/03/2026

**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

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

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot