

आयकर अपीलीय अधिकरण, सूरत न्यायपीठ, सूरत ।
IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT 'SMC' BENCH, SURAT
[conducted through Hybrid mode at Ahmedabad Bench]

श्री संजय गर्ग, न्यायिक सदस्य एवं
श्री नरेन्द्र प्रसाद सिन्हा लेखक सदस्य के समक्ष।

Before Shri Sanjay Garg, Judicial Member And
Shri Narendra Prasad Sinha, Accountant Member

आयकर अपील सं./ITA Nos.835/SRT/2025
आयकर अपील सं./ITA Nos.836/SRT/2025
निर्धारण वर्ष /Assessment Year : 2013-14

Rajendrakumar Ichubhai Kothari 2 119 Parkhetiafaliyu Kervada Amod Bharuch Bharuch - 392 025	बनाम/ v/s.	The ITO Ward-1(4) Bharuch - 356 069
स्थायी लेखा सं./PAN: CFUPK 6177 B		
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
Assessee by :	Shri Surendra Modiani, CA	
Revenue by :	Shri Ajay Uke, Sr.DR	

सुनवाई की तारीख/Date of Hearing : 10/12/2025
घोषणा की तारीख /Date of Pronouncement: 09/03/2026

आदेश/ORDER

Per Sanjay Garg, Judicial Member:

The present two appeals have been preferred by the assessee against the separate orders of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'CIT(A)'] dated 11/06/2025 (quantum appeal) & 12/06/2025 (penalty appeal) passed u/s.250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for the Assessment Years (AYs) 2013-14.

ITA No.835/SRT/2025

2. The assessee, in his quantum appeal, has raised the following grounds of appeal:

"1. That on the facts and in the circumstances of the case and in law, the learned Assessing Officer erred in making an addition of ₹22,43,934/- on account of interest received on enhanced compensation compulsory acquisition of agricultural land under the Land Acquisition Act, and the learned Commissioner of Income-tax (Appeals) further erred in confirming the said addition.

The appellant submits that the said addition is unjustified, arbitrary, and bad in law, having been made without proper appreciation of the facts, evidences, and the applicable legal provisions.

The appellant, therefore, prays that the addition made and sustained may kindly be deleted.

Your appellant craves leave to add to, alter, amend or delete any of the grounds of appeal."

3. The brief facts of the case are that the assessee is an individual and had not filed his income tax return for assessment year 2013-14, as per the provisions of section 139 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'). On the basis of information available on AIMS database, during the relevant period of time, the assessee had received interest income amounting to Rs.29,91,901/- but failed to file his income-tax return. Accordingly, assessment proceedings u/s 147 of the Act were reopened with issuance of notice u/s 148 of the Act on 30.03.2021. In response thereto, the assessee filed its ITR on 15.09.2021 declaring total income of Rs.7,71,880/-. During the course of assessment proceedings, the assessee was asked to furnish the reasons for not offering the interest income on enhanced compensation for taxation. In response to the notices, the assessee vide its reply dated 02.02.2022 submitted that the said interest income was awarded by the court for compensation of agricultural land and the interest income in

question was exempt. Further, there are other 4 co-owners of the said agriculture land. However, the assessee has stated that to purchase peace of mind, an amount of Rs.7,47,975/- (as per his share in the property) has been offered for taxation. It is further stated by the assessee remaining amount of Rs.22,43,926/- pertained to other co-owners of the property.

3.1. However, the Assessing Officer (AO) did not accept the aforesaid reply of the assessee and observed that assessee had not submitted any proof regarding the ownership of other members in the property. He further observed that the whole amount had been credited in the bank account of the assessee, which clearly established that the said interest income pertained to the assessee only. He, accordingly, treated the entire interest income to the tune of Rs.22,43,934/- as assessee's income from other sources u/s 56 of the Act and added back the same to the income of the assessee. He also initiated penalty proceedings u/s 271(1)(c) of the Act and levied the impugned penalty.

4. During the assessment proceedings before the Ld. CIT(A), the assessee produced land records/7/12 abstract and the property deed to show that there were 4 co-owners of the property. However, the Ld. CIT(A) observed that the said documents were additional evidences and the assessee has not given plausible reason for not furnishing the same before the AO. He, therefore, rejected the additional evidences filed by the assessee and confirmed the impugned addition made by the AO.

5. Before us, the Ld. Counsel for the assessee has made two-fold submissions. Firstly, that the property was co-owned by the assessee along

with other three co-owners. He, in this respect, has referred to the submissions and documents furnished before the AO, which is a copy of land records. As per the village form No.8A (a ledger of land No.D 7396738), the land was owned by 4 co-owners, namely, Rajendrakumar Ichchhubhai, Deepikaben, wd/o Shaileshkumar Ichchhubhai, Hardikkumar Shaileshkumar and Jashukanta alias Jashodaben Ichchhubhai. These land records were duly submitted by the assessee before the AO. Further, the affidavit of the assessee has also been filed, wherein, the lineage of Late Ichchhubhai Kuberji Kothari has been given showing that he had four legal heirs as named above out of which Jashodaben w/o Late Ichchhubhai Kuberji Kothari had died and the other three legal heirs are their sons and daughters. We note that both the lower authorities have failed to consider the aforesaid submissions of the assessee. It has been held time and again that the income-tax authorities should charge only legitimate taxes from the citizens. If the assessee's share is only 1/4th in the property compulsorily acquired by the Government, the assessee can be charged tax to the extent of income earned on his share and not relating to the income of the other co-owners.

6. Secondly, the Ld. Counsel for the assessee has relied upon the provisions of section 56(2)(viii) of the Act which refers to income way of interest received on compensation or on enhanced compensation to be treated as income from other sources and further as per the provisions of section 57(iv) of the Act which states that in case of income of the nature referred to in clause (viii) of section 56(2), a deduction of a sum of equal to 50% of such income will be allowed. The Ld. Counsel therefore has submitted even otherwise the assessee is entitled to the deduction @ 50% on

the interest income earned by the assessee on enhanced compensation on account of compulsorily accumulation of land by the Government.

7. We find force also in the above contention raised by the assessee. The issue relating to the 1/4th share of the assessee needs to be examined at the hands of the AO and the AO is also required to give statutory deduction on the above income earned by the assessee as provided u/s.57(iv) of the Act.

8. We, therefore, set aside the impugned order of the Ld. CIT(A) and restore the matter to the file of the AO for decision afresh on the above issues. Needless to say, that the AO will give proper and adequate opportunity to the assessee to present his case and furnish the necessary documents and thereafter the AO will give finding on both the issues as noted above by way of a speaking order and assess the income of the assessee accordingly.

This appeal of the assessee is treated as allowed for statistical purposes.

ITA No.836/SRT/2025

9. So far as the penalty appeal is concerned, since we have already set aside the matter for assessment afresh to the file of the AO, therefore, the impugned penalty, at this stage, has no legs to stand and the same is, accordingly, ordered to be deleted. It is made clear that if the AO in the freshly passed assessment order will be of the view that the case of the assessee is fit for levy of penalty, he will be at liberty to initiate fresh penalty proceedings in accordance with law.

10. In the result, quantum appeal of the assessee in ITA No.835/SRT/2025 is treated as allowed for statistical purposes, whereas, assessee's penalty appeal in ITA No.836/SRT/2025 stands allowed.

Order pronounced in the Open Court on 09/03/2026.

**Sd/-
(Narendra Prasad Sinha)
Accountant Member**

**Sd/-
(Sanjay Garg)
Judicial Member**

अहमदाबाद / Ahmedabad, दिनांक / Dated 09/03/2026

टी. सी. नायर, व. नि. स. / T.C. NAIR, Sr. PS

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, आयकर अपीलीय अधिकरण, सूत / AR, ITAT, Surat / Ahmedabad.
6. गार्ड फाईल / Guard file.

आदेशानुसार / BY ORDER,

सत्यापित प्रति // True Copy //

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