

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 No.786/SRT/2025  
निर्धारण वर्ष /Assessment Year : 2010-11

|   |                                 |  |
|---|---------------------------------|--|
| Shreyans Anilkumar Shah<br>504, Rushabh Residency<br>Maneklal Road<br>Nr. Telephone Exchnage<br>Navsari - 396 445 | <u>बनाम</u><br>/<br><u>v/s.</u> | The ITO<br>Ward-5<br>Navsari - 396 445 |
| स्थायी लेखा सं./PAN: AIQPS 6441 P   |                                 |  |

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| (अपीलार्थी/ Appellant) |  | (प्रत्यर्थी/ Respondent) |
|------------------------|--|--------------------------|

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|---------------|-----------------------|
| Assessee by : | Ms. Chaitali Shah, 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 appeal has been preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'CIT(A)'] dated 16/05/2025 passed u/s.250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for the Assessment Years (AYs) 2010-11.

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

*"1. On the facts and circumstances of the case as well as law on the subject, the Ld. CIT(A) has erred in confirming the action of assessing officer in levying penalty of Rs. 15,00,000/- u/s. 271(1)(c) of the I.T. Act, 1961.*

*2. It is therefore prayed that the above penalty levied by assessing officer and confirmed by Ld. CIT (A) may please be deleted.*

*3. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal."*

3. The brief facts of the case are that the assessee the assessee has filed his return of income declaring total income at Rs.1,51,020/- for year under consideration. The assessment was reopened by the Assessing Officer (AO) noting that the assessee had deposited heavy cash amount in his bank account of amounting to Rs.21,20,783/- with the ICICI bank and further a sum of Rs.8,30,859/- in other bank accounts. The AO also made an addition Rs.3,01,995/- Since the assessee did not explain the source of the aforesaid expenses with reliable evidence, therefore, the AO treated the aforesaid deposits on account of unexplained deposits. The AO completed the assessment by making an addition of Rs.32,53,637/-. Penalty proceedings were also initiation u/s.271(1)(c) of the Act. Since the impugned addition were confirmed by the Ld. CIT(A) in the appellate proceedings, therefore, the AO levied the impugned penalty of Rs.15,00,000/- which has been further confirmed by the Ld. CIT(A).

4. Before us, the Ld. Counsel for the assessee has relied upon the order of the Coordinate Bench of the Tribunal in the case of the assessee dated 26/09/2025 passed in ITA No.727/SRT/2023, whereby, the Tribunal has accepted the contentions of the assessee that the aforesaid amounts found deposited in the bank accounts of the assessee was collection from customers in the course of his profession of a freelancer/agent for various financial

schemes. The Tribunal, however, estimated the net profit @15% of the impugned deposits and confirmed the addition at Rs.4,88,045/-.

4.1. The Ld. Counsel for the assessee has submitted that the assessee in his return of income had already shown an income of Rs.3,05,484/- as brokerage income being commission income earned. That the Tribunal has also accepted his contention that the assessee was acting as a freelancer/agent for various financial schemes. He has submitted that the Tribunal, though, has estimated the commission income of the assessee @15% of the gross receipts, yet, it is not a case, wherein it is proved that the assessee has concealed his income or has furnished inaccurate particulars of income. The assessee had duly shown the commission income, but at a lesser rate. He, therefore, relying upon various case laws, has submitted that merely the income has been estimated at a higher rate, the same could not be held to be a case of furnishing of inaccurate particulars of income or concealment of income.

5. We find force in the aforesaid contention raised by the Ld. Counsel for the assessee. The impugned addition was made by the AO on the ground that the assessee had unexplained deposits in his bank account, whereas, the Tribunal has accepted the contention of the assessee regarding the source of the deposits and also that the assessee had earned only commission income thereupon. Therefore, the very basis on which the impugned additions were made has not been sustained. The assessee had also duly offered commission income in his return of income. Merely because the Tribunal has estimated the commission income at a higher rate, that itself, is not enough to hold that it is a case of furnishing of inaccurate particulars of income or of concealment

of income. Therefore, the impugned penalty levied by the AO is not sustainable and the same is, accordingly, ordered to be deleted.

6. In the result, the appeal of the assessee 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 ,सूरत /AR, ITAT, Surat/Ahmedabad.
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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आयकर अपीलीय अधिकरण, ITAT, Surat/Ahmedabad