

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.859/SRT/2025
निर्धारण वर्ष /Assessment Year : 2016-17

Chintan Vrajlal Mangukiya B-76 Ramkrishna Society L.H. Road Varachha Surat - 395 006	<u>बनाम</u> / <u>v/s.</u>	Assessment Unit ITO Jurisdictional AO Ward-3(3)(1) ITO Ward-3(3) Surat - 395 001
स्थायी लेखा सं./PAN: BLPPM 3876 F		

(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
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Assessee by :	Shri P.M. Jagasheth, 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 25/03/2025 passed u/s.250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for the Assessment Years (AYs) 2016-17.

2. The appeal of the assessee is time-barred by 79 days. A separate application for condonation of delay has been filed, wherein, it has been

pleaded that the Ld. CIT(A) had sent the notice of hearing at the email-id of the previous Accountant of the assessee, however, he did not inform the assessee about the said notices. The notices sent by the Ld. CIT(A) did not come to the notice of the assessee and, hence, the case of the assessee remained unrepresented before the Ld. CIT(A). Even the passing of the impugned order of the Ld. CIT(A) did not come to the notice of the assessee, resulting into the aforesaid delay in filing the present appeal.

Considering the above submissions of the assessee, the delay in filing the appeal is hereby condoned.

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

“1. On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of the Income Tax (Appeals) has erred in confirming the action of the Assessing Officer in the notice issued u/s.148 by JAO is invalid as it ought to have been issued under the Faceless Regime as per Section 151A of the Income Tax Act, 1961.

2 On the facts and in the circumstances of the case as well as the law on the subject. the learned Commissioner of the Income Tax (Appeals) has erred in not holding the notice u/s. 148 of the Act as invalid as the notice issued u/s. 148 of the Act was beyond period of three years and as per provisions of amended section 151 of the Act approval was required to be taken from Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General of Income Tax and not from Principal Commissioner of Income Tax.

3 On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of the Income Tax (Appeals) has erred in confirming the action of the Assessing Officer in re-opening the assessment u/s.147 of the Income Tax Act, 1961 and issuing notice u/s 148 of the Income Tax Act, 1961.

4. On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of the Income Tax (Appeals) has erred in confirming the action of the Assessing Officer in making addition of Rs. 10,99,000/-as unexplained investment u/s. 69 of the Income Tax Act, 1961.

5. *On the facts and in the circumstances of the case as well as the law on the subject, the addition made by the Ld. AO is not justified in law or in the fact and circumstances of the case and required to be deleted.*

6 *On the facts and in the circumstances of the case as well as law on the subject, the learned Commissioner of the Income Tax (Appeals) has not offered adequate opportunities to hear the case and passed ex-parte order, hence the case may please be set aside and restored back to the CIT(A) or A.O.*

7. *On the facts and in the circumstances of the case as well as the law on the subject, the learned Assessing Officer has erred in initiating penalty proceedings u/s.271(1)(c) of the Income Tax Act, 1961.*

8. *It is therefore prayed that the above addition may please be deleted as learned members of the tribunal may deem it proper.*

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

4. The brief facts of the case are that the assessee has filed his return of income on 22/12/2016 declaring total income at Rs.5,03,600/- for the year under consideration. The assessment in the case of the assessee was reopened on the basis of information received through Insight Portal of the Department that during the year, the assessee had made payment of Rs.10,99,000/- to M/s.Torque Automotive Pvt.Ltd. for purchase of luxury car, which included cash payment of Rs.7,91,000/-. The assessee explained that the assessee was a civil contractor and that the aforesaid cash payment was made out of the cash in hand available with the assessee. The assessee also produced the cash book before the Assessing Officer (AO) and also submitted that the opening cash balance with the assessee as on 01/04/2015 was Rs.8,93,432/-, the gross cash receipts earned during the year was of Rs.12,21,780/-. The cash payments made during the year were of Rs.4,87,746/- and other payments on account of household expenses, etc. were Rs.4,19,482/- and the cash payment made for purchase of Car was Rs.7,91,000/- and the closing cash balance was

Rs.4,16,984/-. The assessee also attached the copy of the income tax return for AY 2015-16, wherein, he had declared the closing cash in hand of Rs.8,93,432/- which was the opening balance for the assessment year under consideration, AY 2016-17.

5. After going through the assessment order, we find that the AO without considering the above submissions and corresponding evidences furnished by the assessee has summarily rejected the contentions of the assessee and made the impugned addition in a mechanical manner stating that the assessee could not furnish sufficient evidence to prove the source of the cash in hand. He held that the assessee had made unexplained investment and made the impugned addition of the total price of the car at Rs.10,99,000/-.

6. Aggrieved by the order of the AO, the assessee preferred the appeal before the Ld. CIT(A). The Ld. CIT(A) vide impugned ex-parte order confirmed the action of the AO in making addition of Rs.10,99,000/- .

7. Aggrieved by the order of the Ld. CIT(A), now the assessee is in appeal before us.

8. We have heard the rival contentions of the Ld. Representatives of the parties and gone through the record. We note that the assessee has duly explained before the AO that out of total payment of Rs.10,99,000/-, the assessee had made cash payment of Rs.7,91,000/- out of the cash in hand. The assessee had duly furnished the cash book. The assessee had also shown the closing cash in hand of Rs.8,93,432/- as on 31/03/2015 in his return of income for AY 2015-16. It has been further explained that the remaining

payment was made through HDFC Auto Car Loan. The AO has not pointed out any discrepancy in the evidences furnished by the assessee. Therefore, the impugned addition made in a mechanical manner by the AO is not legally sustainable and the same, accordingly, ordered to be deleted.

9. In the result, 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 //

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