

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AHMEDABAD**

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

**ITA No. 81/AHD/2026
Assessment Years: 2012-13**

Shri Kamalpur Go Sevasahakari Mandli Ltd., At – Kamalpur Dairy, Gothava, Visnagar, Visagar Gujarat - 384315 [PAN – AAAAS1489C] (Appellant)		Vs.	Income Tax Officer Ward- 1, Patan Gujarat - 384265 (Respondent)
Assessee by	Shri Sunil Talati, AR		
Revenue by	Smt. Ananya Kulshresth, Sr. DR		
Date of Hearing	09.04.2026		
Date of Pronouncement	21.04.2026		

ORDER

PER NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER:

This appeal is filed by the assessee against the order dated 16.12.2025 passed by Addl/JCIT(Appeal) – 1 Chennai [hereinafter referred to as ‘Addl. CIT(A)’] for the Assessment Year (A.Y.) 2012-13 in the proceeding u/s. 143(3) r.w.s. 147 of the Income Tax Act.

2. The brief facts of the case are that the assessee did not file its return of income for A.Y. 2012-13. The AO had received an information that assessee had received contract receipts of Rs.22,82,136/- during the year on which TDS u/s 194C of the Act was deducted. On the basis of this information, the case of the assessee was reopened by issue of notice

u/s. 148 of the Act on 27.03.2019, in response to which the assessee had filed its return of income on 10.05.2019 declaring income of Rs. 21,740/-. Before the AO, the assessee had produced a copy of P&L account from which it was noticed that contract expense of Rs. 22,36,143/- was debited to the account. In the course of assessment no details of this expenditure nor any evidence in this regard was provided in spite of ample opportunities provided to the assessee. Therefore, the AO had treated the entire contract expense of Rs. 22,36,143/- as bogus and disallowed the same. Further addition on account of TDS and donation debited to account were also made and the assessment was completed u/s. 143(3) r.w.s. 147 of the Act on 28.06.2019 at total income of Rs.23,03,620/-.

3. Aggrieved with the order of the AO, the assessee had filed an appeal before the first appellate authority, which was decided by the learned Addl. CIT(A), vide the impugned order and the appeal of the assessee was dismissed.

4. Now the assessee is in second appeal before us. The following grounds have been taken in this appeal:

1. *The Ld. CIT(A) has erred in confirming the addition of Rs.22,36,143/- on the ground that appellant has erred in not disclosing the income of work contract to the tune of Rs 22,36,143/- purely on the basis of Form 26AS. It is submitted that appellant Cooperative Society is not at all engaged or involved in any such contract work or contract receipts under Section 194C list in contract of Rs 22,36,143/-, It appears that information received on the wrong PAN Number is straightaway added without appreciating the facts and records. It is submitted that such incorrect addition be deleted*
2. *The Ld. CIT(A) has erred in confirming the additions of RS. 22,36,143/- purely on the basis of information in his possession in Form 26AS, wherein the PAN Number of the appellant appears to have been mention by somebody else by mistake The appellant trust has never received or executed or any such work at any time in its history. In view*

of this such additions made purely on the basis of information available on Form 26AS is totally incorrect and illegal and the same be deleted

3. *The order passed by the Ld. CIT(A) is bad in law and contrary to the provisions of law and facts. It is submitted that the same be held so now.*
4. *Your appellant craves leave to add, alter and/or to amend all or any of the grounds before the final hearing.*

5. Shri Sunil Talati, the Ld. AR of the assessee submitted that the case of the assessee was reopened on the basis of information available in Form 26AS as per which the assessee had received contract receipt of Rs. 22,82,136/- on which TDS of Rs. 45,643/- was made. He submitted that this information was in respect of PAN No. AAAAS1489S, which was duplicate PAN of the assessee and not in use. He explained that someone else had misused the duplicate PAN of the assessee and carried on this contract work. He explained that the contract receipts of Rs. 22,82,136/- as appearing in Form 26AS was not received by the assessee in its bank account as no such work was carried out by the assessee. As regards submissions made before the AO, the Ld. AR submitted that the accountant of the assessee in order to avoid litigation had wrongly submitted before the AO that the contract amount was received by the assessee. He further submitted that the assessee had did not take credit of TDS of Rs. 45,463/- deducted on this contract receipt in the return filed. The Ld. AR further submitted that since no contract was carried out by the assessee and there was no contract receipt there could not have been any evidence for expenses incurred in respect of this contract. He, therefore, requested that the matter may be set aside to the file of the AO with a direction to verify the correct facts and thereafter re-adjudicate the matter.

6. Per Contra, Smt. Ananya Kulshresth, the Ld. Sr. DR submitted that the assessee itself had furnished the P&L account before the AO wherein the contract receipt of Rs. 22,82,136/- and contract expense of Rs.22,36,143/-, was disclosed. She further submitted that assessee had not brought on record any evidence of any police case being filed for mis-utilization of duplicate PAN of the assessee. Further the assessee had also not given evidence for surrender of the duplicate PAN. She, however, had no objection if the matter was set aside to the file of the AO for verification of correct facts regarding receipt of contract amount by the assessee.

7. We have considered the rival submissions. There is no dispute to the fact that the contract receipts of Rs. 22,82,136/- was reflected in PAN No AAAAS1489C belonging to the assessee on which TDS of Rs. 45,643/- was made. Before the AO, the assessee had admitted the receipt of this contract amount against which contract expense of Rs. 22,36,143/- was debited to P&L account. In the absence of any evidence for the contract expense, the AO had disallowed the entire expense of Rs. 22,36,143/-. The action of the AO in disallowing the entire contract expense could not be justified. By disallowing the contract expense, the AO had brought to tax the entire contract receipt, which was not correct. If the assessee was unable to bring on record any evidence for the contract expense, the AO should have rejected the trading account and worked out the profit out of contract receipt by applying the provision of section 44AD of the Act. Before the CIT(A) as well as before us, the assessee has taken a plea that no contract work was executed by it and the contract amount was never received. In support thereof, the assessee

has filed a copy of its bank statement which is a fresh evidence. In the interest of justice, we deem it proper to set aside the matter to the file of Jurisdictional AO with a direction to verify the contention of the assessee that no contract work was executed by the assessee with Public Works Division Pandharpur, as appearing in Form 26AS, and that no amount in respect of contract work was received by it. The AO may call for and verify the bank statement(s) of the assessee in order to ensure whether any contract amount was received by the assessee. The AO is also free to make enquiry in this respect as deemed fit. If the AO is not satisfied with the explanation of the assessee, the profit out of contract receipt may be worked out in accordance with the provisions of section 44AD of the Act.

8. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the Court on 21/04/2026 at Ahmedabad.

Sd/-
(SAJAY GARG)
Judicial Member

Sd/-
(NARENDRA PRASAD SINHA)
Accountant Member

Dated – 21st April, 2026

Neelesh, Sr. PS

(True Copy)

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 / DR, ITAT,
6. गार्ड फाईल / Guard file.

आदेशानुसार/BY ORDER,
उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad