

**आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'C' अहमदाबाद।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"C" BENCH, AHMEDABAD**  
**BEFORE S/SHRI SANJAY GARG, JUDICIAL MEMBER**  
**AND**  
**MAKARAND V.MAHADEOKAR, ACCOUNTANT MEMBER**  
**ITA No.725/Ahd/2025**  
**Asstt.Year : 2012-2013**

Ashapura Stone Industries 1, NH No.8, Vasad Nr.GEB Sub-station Anand-388 306, Gujarat PAN : AAUFA 6762 D	Vs.	The ITO, Ward-1 Anand.
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(Applicant)		(Respondent)
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Assessee by :	Shri Hardik Vora, AR
Revenue by :	Shri Hargovind Singh, Sr.DR

सुनवाई की तारीख /Date of Hearing : 07/08/2025  
घोषणा की तारीख /Date of Pronouncement: 07/08/2025

**आदेश/ORDER**

**PER MAKARAND V.MAHADEOKAR, AM:**

This appeal is filed by the assessee against the order dated 04.03.2025 passed by the CIT(Appeals), National Faceless Appeal Centre (NFAC), Delhi under section 250 r.w.s. 254 of the Income-tax Act, 1961 for the A.Y. 2012-13.

**2. Brief Facts**

2.1 The assessee is engaged in the business of quarrying and trading in stone products. In the course of reassessment proceedings initiated u/s 147 based on an information received from the office of the Dy. Director of Income-tax (Investigation), it was alleged that M/s. Umiya Industries, operated by Shri Alpeshkumar Vitthalbhai Patel, was a paper concern which had provided accommodation entries. The Assessing Officer, relying

solely on the statement of Shri Alpeshkumar Patel, treated the assessee's advance of Rs.50,00,000/- to Umiya Industries towards purchase of machinery as bogus and made addition u/s 69 of the Act.

2.2 In the first round of appeal, the CIT(A) dismissed the appeal *ex parte*. The assessee preferred appeal before the Tribunal, and the Co-ordinate Bench, vide order dated 11.06.2024 in ITA No. 27&28/Ahd/2024, set aside the CIT(A)'s order and restored the matter with specific directions. Relevant Directions of the Coordinate Bench (para 6.1 of ITA No. 27/Ahd/2024):

*6.1. Considering the aforementioned facts, we are of the view that the matter requires a thorough examination with due adherence to the principles of natural justice. Therefore, we deem it appropriate to remand the matter back to the file of the Ld.CIT(A) with directions that –*

*- The Ld.CIT(A) shall provide the Assessee an opportunity of being heard.*

*- The Ld.CIT(A) shall allow the Assessee to cross-examine the supplier.*

*- The Ld.CIT(A) shall get the statement of the bank officer recorded regarding the loan sanctioned against the machinery with respect to its claim of bogus purchase.*

*- The Ld.CIT(A) shall decide the matter afresh on merits, considering all relevant evidence and submissions.*

2.3 Despite the above directions, the CIT(A), NFAC again confirmed the addition of Rs.50,00,000/-, without executing any of the directions issued by the Co-ordinate Bench. Particularly, **paragraph 6.3.2** of the CIT(A)'s order reads:

*“During the course of present proceedings, the appellant had reiterated the facts narrated before the AO during the course of assessment proceedings. No new facts have been brought on record. By issue of notice under sec. 131, the investigation wing confirmed that no business of manufacturing of submersible pump sets was carried out at the given address by the Umiya Industries. Therefore, the above entity is found to be shell entity which is operating only on paper.”*

2.4 The above extract shows that neither was the supplier summoned for cross-examination, nor was any statement of the bank officer recorded. The order is wholly silent on compliance with any of the binding directions of the Co-ordinate Bench, and instead reiterates conclusions based on the same untested evidence previously found inadequate.

4. Aggrieved by the order of CIT(A), the assessee is in appeal before us raising following grounds of appeal:

1. *On the facts and circumstances of the case as well as law on the subject, the learned CIT (Appeals) has erred in confirming initiation of re-assessment proceedings u/s 148 of the Act.*
2. *On the facts and circumstances of the case as well as law on the subject, the learned CIT (Appeals) has erred in confirming the addition of Rs.50,00,000/- on account of advance payment made to M/s. Umiya Industries for purchase of machinery.*
3. *On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in confirming addition of Rs.50,00,000/- on account of advance payment made to M/s. Umiya Industries without considering that transactions are not bogus and assessee has purchased the machinery.*
4. *On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in confirming addition of Rs.50,00,000/- u/s 69C of the Act without considering that the transactions are duly recorded in the books of account and source of payment is also explained by assessee.*
5. *On the facts and circumstances of the case as well as law on the subject, the learned CIT (A) has erred in confirming addition of Rs.50,00,000/- only on the basis of statement of Shri Alpeshkumar Vitthalbhai Patel, a proprietor of M/s Umiya Industries without any supporting corroborative evidences.*
6. *On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in confirming addition of Rs.50,00,000/- without providing an opportunity of cross-examination of Shri Alpeshkumar Vitthalbhai Patel, a proprietor of M/s Umiya Industries as per the specific direction of ITAT in the first round.*
7. *On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in confirming addition of Rs.50,00,000/- without obtaining the statement of the bank officer recorded regarding the loan sanctioned against the machinery with respect to its claim of bogus purchase as per the specific direction of ITAT in the first round.*
8. *It is therefore prayed that the above addition/disallowance made by the assessing officer may please be deleted.*
9. *Appellant craves leave to add, alter or delete any grounds) either before or in the course of hearing of the appeal.*

5. During the course of hearing, the Learned Authorised Representative (AR) invited our attention to the impugned order dated 04.03.2025 passed

by the CIT(A), and submitted that none of the above directions have been complied with. He pointed out that the order is a mechanical reproduction of the earlier reasoning, devoid of any effort to enforce cross-examination, record the bank officer's statement, or even properly evaluate the evidences filed by the assessee.

5.1 The Learned Departmental Representative (DR), with fairness, conceded that the CIT(A) has not followed the Bench's directions and did not facilitate either the cross-examination of Shri Alpeshkumar Vitthalbhai Patel or the recording of the statement of the bank officer concerned. He left the matter to the wisdom of the Bench.

6. We have carefully examined the record. The perusal of the impugned order, particularly paragraph 6.3.2, confirms the submissions of the AR. This statement demonstrates that the CIT(A) has not summoned the supplier for cross-examination, nor called upon the bank officer, as explicitly required by the Tribunal. Rather than complying with the judicial directions, the appellate authority has merely reiterated untested findings from the investigation wing, once again relying on the same statement of Shri Alpeshkumar Patel, without giving the assessee any opportunity to rebut it. This flies in the face of the binding directions of the Tribunal and offends the most basic principles of natural justice.

6.1 We are constrained to observe that this conduct amounts to a gross dereliction of statutory duty. The Tribunal's order was not a mere advisory opinion, but a binding adjudication under section 254(1) of the Act. Non-compliance with such directions vitiates the proceedings and undermines the rule of law. In this case, despite the solemn directions issued in the earlier round, the CIT(A) has, by act of omission, rendered the entire appellate proceeding a farce. Such defiance, even if arising from indifference or administrative inertia, amounts to judicial insubordination and warrants strict consequences.

6.2 In view of the foregoing discussion and the undisputed fact, also fairly conceded by the Ld. DR, that the directions issued by the Co-ordinate Bench in its earlier order dated 11.06.2024 in ITA No. 27 & 28/Ahd/2024 have not been complied with by the CIT(A), we find it necessary to once again restore the matter for proper and meaningful adjudication.

6.3 The order passed by the CIT(A) dated 04.03.2025 is based on a reiteration of the earlier investigation report and the untested statement of the third party. It neither reflects compliance with the directions for cross-examination of the supplier nor any effort to record the statement of the bank officer, as was expressly mandated. The remand by the Tribunal was not an empty formality but a specific direction aimed at curing serious procedural and substantive irregularities. A second failure to adhere to those directions causes concern and reflects poorly on the appellate process.

6.4 We would like to underscore that directions issued under section 254(1) are binding on the lower authorities and must be implemented with due seriousness and judicial discipline. At the same time, we refrain from drawing any adverse inference regarding intent and treat the present lapse as one of oversight rather than wilful disobedience.

6.5 Accordingly, we pass the following directions and observations:

- The impugned order passed by the CIT(A) dated 04.03.2025 is set aside.
- The matter is restored to the file of the CIT(A), NFAC, who is once again directed to follow the directions already given in the earlier order of the Co-ordinate Bench and pass a fresh speaking order on merits after considering all submissions and evidences placed on record.
- The above directions shall be carried out in true spirit, and the appellate authority is expected to document the steps taken in compliance with the Bench's remand directions.

6.6 Before parting, we consider it appropriate to observe that repeated non-compliance with appellate directions, even if unintentional, undermines judicial efficacy and public confidence in the appellate process. We, therefore, request the Central Board of Direct Taxes (CBDT) to take note of this issue and, if deemed necessary, issue suitable guidance to the field and appellate authorities to ensure that remand directions of the Tribunal are scrupulously followed in all cases, particularly where specific procedural safeguards are mandated.

6.7 We trust that the concerned authority will view this not as criticism but as a constructive reminder to strengthen the appellate mechanism and uphold judicial discipline.

7. The appeal of the assessee is allowed for statistical purposes, with directions as above.

**Order pronounced in the Court on 7<sup>th</sup> August, 2025 at Ahmedabad.**

Sd/-  
**(SANJAY GARG)**  
**JUDICIAL MEMBER**

Sd/-  
**(MAKARAND V. MAHADEOKAR)**  
**ACCOUNTANT MEMBER**

Ahmedabad, dated 07/08/2025