

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

**BEFORE DR. BRR KUMAR, VICE PRESIDENT &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.779/Ahd/2025
(Assessment Year: 2011-12)

Manubhai Dahyabhai Bhoi, 47, Vinayak Nagar Society, B/h. Yogeshwar Society Road, Godhra-389001	Vs.	Income Tax Officer, Ward-1, Godhra
[PAN No.ACIPB4607N]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Sulabh Padshah, AR
Respondent by:	Shri Pratik Sharma, Sr. DR

Date of Hearing	05.08.2025
Date of Pronouncement	12.08.2025

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Centre (in short “NFAC”), Delhi vide order dated 18.05.2023 passed for A.Y. 2011-12.

2. We note that there is delay of 621 days in filing of appeal. The assessee has filed application for condonation of delay along-with an Affidavit. The delay in filing the appeal has been explained on account of the non-receipt of hearing notices and the order passed by the CIT(A) under Section 250 of the Income Tax Act, 1961 (Act), due to miscommunication or incorrect usage of the email ID in the faceless appeal proceedings. It has been submitted that although the appellant had duly filed Form 35 and provided a correct email address, certain notices and the

final order were sent to a different or non-functional email ID, resulting in the assessee remaining unaware of the proceedings and the passing of the ex-parte order. It is further stated that, after the introduction of the Faceless Appeal Scheme, 2020, there was a long period of inactivity, which led to irregular checking of the appeal status on the portal. Upon being apprised of the matter only recently, the appellant has promptly moved this appeal and sought condonation. Considering the above facts and the bona fide nature of the reasons provided, the delay in filing the appeal is hereby condoned in the interest of justice.

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

“1. The Ld. Assessing Officer has erred in law and on facts in reopening the case of the Appellant invoking provisions of Section 147 and 148 of the Act. On facts and circumstances of the case, there is not at all any escapement of income on part of Appellant. It is therefore submitted that the whole reopening of assessment is bad in law and void ab initio and the order passed u/s 144 rws 147 of the Act be quashed and set aside accordingly.

2. The Learned CIT (Appeals) has erred in passing an Ex-parte order and dismissing the appeal of the Appellant without appreciating the facts and circumstances of the case. It is submitted that the responses could not be filed before tower authorities due to circumstances beyond the control of the Appellant. In view of this, the lower authorities may please be directed to hear the appellant again and the additions made of Rs.18,51,500/- kindly be deleted after fresh verification of details and evidences.

3. The Learned CIT (Appeals) has erred in confirming the addition of Rs. 18,51,500/- made by AO wrongly invoking the provisions of Section 69A of the Act. On facts and circumstances of the case, the provisions of Section 69A are just not in case of Appellant and thus impugned addition made of Rs. 18,51,500/- being incorrect and illegal be deleted accordingly. The same be held now.

4. The Learned CIT (Appeals) has erred in confirming the addition of Rs 18,51,500/- made on account of cash deposits reflected in bank. It is submitted that the Appellant is having sufficient documentary evidences explaining the source of cash deposits, however the same could not be furnished because of circumstances prevailed beyond the control of the appellant. In view of this, it is prayed before your honour

that the matter may please be set aside to Ld. CIT(A)/to Ld. AO for the verification of details and impugned addition made please be deleted in the interest of justice.

5. The Order passed by the learned 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.

6. Your appellant craves leave to add, alter and/or to amend all or any of the grounds before the final hearing of appeal.”

4. The brief facts of the case are that the assessee is a resident of Anand and a teacher by profession who also undertook contract work for the impugned year under consideration. The assessment proceedings for A.Y. 2011-12 were initiated under section 147 of the Income Tax Act (Act) as the assessee had not filed his return of income within the prescribed time. In response, the assessee filed his return on 11.04.2018 declaring total income of ₹4,61,800/-, which included salary income and presumptive income under section 44AD from carrying out contract work. During scrutiny, the Assessing Officer observed that the assessee had made substantial cash deposits in his bank accounts, amounting to ₹14,20,000/- in State Bank of India (SBI) and ₹15,00,000/- in HDFC Bank. The assessee stated that these deposits were from various sources: ₹14,20,000/- from contract income, ₹9,00,000/- from sale of agricultural land, ₹1,00,000/- withdrawn from his wife's account, and ₹5,00,000/- as gifts received on his son's marriage and personal savings. Upon verification, the source of ₹9,00,000/- and ₹1,00,000/- was accepted based on evidence submitted by the assessee. However, for the remaining deposits-₹14,20,000/- claimed as contract income and ₹4,31,500/- as gifts-the same were not found to be satisfactorily explained by the Assessing Officer. The Assessing Officer noted that despite claiming presumptive income under section 44AD of the Act, the assessee was not able to provide supporting documents like bills, vouchers, or bank

withdrawals reflecting actual business activities, which is expected even under presumptive taxation for assessing the credibility of the assessee's statement. Moreover, the Assessing Officer noted that the large deposits were made within a very short span and without any corresponding withdrawals which are required for the meeting the construction or contract-related expenditures. Further, the Assessing Officer noted that in prior and subsequent assessment years, the assessee had only reported only salary income, with no indication that the assessee had carried out any business / contractual activity, raising doubts about the authenticity of the contract activity in A.Y. 2011-12. Also, the gift amount claimed to have been received on account of the son's marriage also lacked corroborative evidence. The gifts were allegedly received nearly a month prior to the actual wedding date, which is contrary to the usual practice of receiving such gifts on or after the marriage date. Though an invitation card and a marriage certificate were submitted, the discrepancy in timing and lack of credible evidence led the Assessing Officer to reject the claim. Therefore, the Assessing Officer held that ₹18,51,500/- (comprising ₹14,20,000/- of unexplained contract income and ₹4,31,500/- of unexplained marriage gifts) remained unexplained under section 69A of the Act. Accordingly, the said amount was added to the assessee's total income for A.Y. 2011-12.

5. In appeal, CIT(Appeals) dismissed the appeal of the assessee with the following observations:

“5. The facts of the case as noted above are that the appellant has not pursued the appeal despite being granted several opportunities as elaborated supra. No details, documents or submissions have been provided to come to any conclusion other than those arrived at by the assessing officer in the order. The notices have been duly served upon the assessee via e-mail. Regrettably no response whatsoever was forthcoming on

the appointed date. Thus, nothing has been placed on record to substantiate as to why the addition of Rs.18,51,5007-amountingby the AO should not be sustained.

6. *In view of the above, the undersigned is left with no option but to decide the case on the basis of material on record. Bare perusal of the facts shows that the appellant has not pursued the appeal despite being granted several opportunities as elaborated supra. The assessee has further jeopardized its case by not responding despite several opportunities that were provided. I am constrained to agree with the approach adopted by the AO in addition of Rs.18,51,500/-. The AO has passed a reasoned and speaking order considering all the facts and the circumstances of the case and no interference with the order of the AO is called for. The grounds of appeal are therefore dismissed.*

7. *Thus, in view of the facts and circumstances of the case, the order passed u/s 143(3) r.w.s. 147of the Act dated 25.12.2018by the AO is **upheld**.*

8. *In the result, the appeal of the assessee is dismissed.”*

6. The assessee is in appeal before us against the aforesaid order passed by Ld. CIT(A).

7. Before us, the Counsel for the assessee submitted that the assessee had placed substantial evidences on record to substantiate that the assessee was carrying out contractual activities during the year under consideration. The Counsel for the assessee drew our attention to Pages 30-34 of the Paper Book, in which the invoices were also placed on record to demonstrate that the assessee had in fact carried out contractual activity for the year under consideration. The Counsel for the assessee submitted that no infirmity with the evidences which were submitted before the Assessing Officer was pointed out by the Assessing Officer. The Assessing Officer did not carry out any independent inquiry to controvert the fact that the assessee was carrying out any contractual activity during the impugned year under consideration. The only reason why the explanation for the source of deposit was rejected by the Assessing Officer was only on the ground that in the preceding and succeeding assessment year, the assessee had not carried out similar

contractual work and also that there were no corresponding withdrawals made by the assessee for carrying out such contractual activity. However, it was submitted that the Assessing Officer had not pointed out to any specific defects in the evidences furnished by the assessee to demonstrate that it had in fact not carried out contractual work during the year under consideration. Further, it was submitted that there is no evidences with the Assessing Officer that the assessee had any unaccounted income for the year under consideration, which was deposited in cash by the assessee in his bank account. The assessee is a retired teacher and had been earning salary income and there is no allegation that the assessee was carrying out any other activity leading to earning of such unaccounted income, which was deposited in his bank account. Further, with regards to the cash of Rs. 4,44,321/- stated to be received as wedding gift, the Counsel for the assessee has given complete list of persons from whom the wedding gift was received. The assessee submitted that no independent inquiry was made by the assessee to rebut the evidences placed on record by the assessee. The only reason why this amount was added as unexplained income was on the ground that the amount was received prior to the date of marriage.

8. In response, Ld. DR placed reliance on the observations made by the Assessing Officer and Ld. CIT(A) in their respective orders.

9. We have heard the rival contentions and perused the material on record. On going through the evidences placed on record by the assessee before the Assessing Officer, and the assessment records, it is seen that the assessee had given complete details of invoices and list of parties from whom the contractual income had been earned. It is also not disputed that the

contractual income was offered to tax under Section 44AD of the Act in the return of income. However, even though complete details of the income break-up alongwith name of parties were furnished to the Assessing Officer, no independent inquiry was made by Assessing Officer to rebut the veracity of the evidences placed on record by the assessee. With regards to list of persons from whom wedding gifts were received, it is seen that the assessee had given complete list of names from whom the wedding gifts were received. The Assessing Officer has not given any specific finding to rebut the evidences placed on record by the assessee. Had the evidence been an afterthought, then clearly the assessee could have exercised the option of showing the date of receipt of such wedding gift as having been received on / after the date of marriage. However, the fact that marriage gifts were received prior to the date of marriage itself could not lead to the conclusion that the same are not genuine, when a complete lists of persons from whom the gifts were received was duly submitted during the course of assessment proceedings and no specific defect had been pointed out with respect to the lists of persons so furnished by the assessee. Accordingly, looking into the evidences placed on record and totality of circumstances, we are of the view that the addition is not sustainable in the hands of the assessee.

10. In the result, the appeal of the assessee is allowed.

This Order pronounced in Open Court on

12/08/2025

Sd/-
(DR. BRR KUMAR)
VICE PRESIDENT

Ahmedabad; Dated 12/08/2025
TANMAY, Sr. PS

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

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

आदेशानुसार/ BY ORDER,

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