

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

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

I.T.A. No.1834/Ahd/2024  
(Assessment Year: 2017-18)

Income Tax Officer, Ward-3(2)(1), Ahmedabad	Vs.	Ramanbhai Jagabhai Bharwad, Shiv Shakti Nagar Sejpur, Gopalpur Gopalpur, Ahmedabad-382405
[PAN No.ASBPB2979G]		
(Appellant)	..	(Respondent)

<b>Appellant by :</b>	Shri Alpesh Parmar, CIT DR
<b>Respondent by:</b>	Shri Tushar Hemani, Sr. Adv. & Shri Parimalsinh B. Parmar, AR

<b>Date of Hearing</b>	18.06.2025
<b>Date of Pronouncement</b>	23.06.2025

**ORDER**

**PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:**

This appeal has been filed by the Department against the order passed by the Ld. Commissioner of Income Tax (Appeal), (in short “Ld. CIT(A)”), National Faceless Appeal Centre (in short “NFAC”), Delhi vide order dated 20.08.2024 passed for A.Y. 2017-18.

2. The brief facts of the case are that the assessee, an individual, originally filed the return of income for Assessment Year 2017-18 on 02.09.2017 declaring an income of Rs. 18,740/-. This was subsequently revised on 31.01.2018, showing a total income of Rs. 2,80,330/-. However, the Assessing Officer (AO) later received information that a substantial sum of Rs. 6,80,00,000/- had been credited and an equal amount debited from the assessee’s bank account (A/c No. 0580501015446 with

COSMOS Bank, Satellite Branch). These high-value fund transfers occurred during the third week of November 2016, which coincided with the demonetization period. On the basis of this information, the AO recorded that income to the extent of Rs. 6.80 crore had escaped assessment and issued a notice under Section 148 of the Act to reopen the case. The assessee submitted his reply on 06.05.2023 giving details of its case. Despite these submissions, the AO was of the view that the assessee had failed to substantiate the nature and source of the Rs. 6.80 crore transaction entered by the assessee. Accordingly, the AO held that the assessee had not provided a satisfactory explanation and treated the entire credit of Rs. 6,80,00,000/- as unexplained income under Section 69A of the Act.

3. In appeal, the assessee challenged the validity of the reassessment proceedings and the subsequent addition of Rs. 6.80 crore under Section 69A of the Act. The assessee submitted that as per Section 149(1)(b) of the Act, when issuing a notice under Section 148 beyond the period of three years, prior sanction must be obtained from a specified authority, namely the Principal Chief Commissioner or Director General. In this case, however, the AO obtained approval from the Principal Commissioner of Income Tax (Pr. CIT-3), Ahmedabad, which is not in accordance with Section 151 of the Act. Moreover, the assessee submitted that as per the faceless assessment scheme under the amended Act, the notice under Section 148 should have been issued through automated allocation by the National Faceless Assessment Centre (NFAC), and not by the

jurisdictional AO. Therefore, the issuance of notice dated 31.08.2022 by ITO Ward 3(2)(1), Ahmedabad, was claimed by the assessee to be without jurisdiction thereby rendering the entire reassessment process void ab initio. With respect to the addition of Rs. 6.80 crore under Section 69A of the Act, the assessee submitted that the AO acted merely on presumptions, without properly evaluating the replies and supporting documents filed by the assessee during the course of assessment proceedings. The assessee submitted that contrary to the AO's assertion that the assessee failed to explain the source of funds, the assessee had furnished detailed evidence including agreements to sale (Banakhat), ledgers, bank statements, and confirmations showing transactions with M/s. Ashtavinayak Realty Pvt. Ltd. and M/s. Green City Farms Pvt. Ltd. The assessee had entered into a Banakhat dated 10.11.2016 with M/s. Ashtavinayak Realty for the sale of land parcels at Uvarsad and also a separate agreement dated 31.03.2014 with M/s. Green City Farms for another parcel of land. When the agreement with Green City Farms was cancelled, the sum of Rs. 4.90 crore was refunded, while the land relating to the agreement with Ashtavinayak Realty remained unsold and continued to be shown as a fixed asset in the assessee's balance sheet as on 31.03.2017. With regards to the amount of Rs. 1.90 crore received from Agarwal Enterprise, the assessee submitted that it was merely a repayment of an advance previously given by the assessee on 18.11.2016, on which interest was earned and TDS was duly deducted by Agarwal Enterprise. Documentary proof such as ledgers, ITRs of lenders, bank statements, and confirmations were submitted by the assessee to substantiate both the ownership and source of the properties

sold, as well as the sources of funds. Despite this, the AO disregarded all these submissions and failed to acknowledge the explanations provided. The assessee submitted that there was no actual sale of the land during the year, no transfer of capital assets, and thus no capital gain tax could be levied. The amount received in relation to land transactions was either refunded or treated as advance and did not constitute the income of the assessee. In light of submissions made by the assessee, CIT(Appeals) allowed the appeal of the assessee.

4. The Department is in appeal against the aforesaid order passed by CIT(Appeals), allowing the appeal of the assessee. The Department has raised the following grounds of appeal:

*“(a) The Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.*

*(i) In this case, the assessee has received a credit amount in his account to the tune of Rs. 6,80,00,000/- and there were debit transactions on the same day in his bank account, and the same were not satisfactorily explained by the assessee during the assessment proceedings.*

*(ii) The assessee has not furnished any explanation as regard to nature of business transaction with M/s. Ashtavinayak Reality Pvt. Ltd. and M/s. Green City Farms which confirms the dissemination report of the DDIT (Inv.), Ahmedabad*

*(iii) The assessee has failed to bring on record any valid explanation in regard to receipt of money of Rs. 1,90,00,000/- from M/s. Aggarwal Enterprises.*

*(b) The appellant craves leave to add, alter and / or to amend all or any the ground before the final hearing of the appeal.”*

5. Before us, the Ld. DR placed reliance on the observations made by the assessing officer in the assessment order. In response, the Counsel for the assessee has primarily relied on the arguments taken by the assessee

before CIT(Appeals). We have heard the rival contentions and perused the material on record.

6. In this case, the AO reopened the assessment of the assessee and made an addition of ₹6.80 crore under Section 69A of the Income Tax Act, attributing the amount to two transactions - ₹4.90 crore received from Ashtvinayak Realty Pvt. Ltd. and ₹1.90 crore from Agarwal Enterprise. The assessee challenged this addition before CIT(A), who, after examining the facts and documents, deleted the entire addition. The primary contention raised by the assessee is that Section 69A is not applicable in the present case. The Counsel for the assessee submitted that Section 69A of the Act can only be invoked when the assessee is found to be the owner of unaccounted money or valuable assets that are not recorded in the books of accounts. However, the amounts received from both Ashtvinayak Realty and Agarwal Enterprise were duly recorded in the books of the assessee. This is supported by the ledger entries: Ashtvinayak Realty's ledger appears (at page 142 of the Paper Book), and Agarwal Enterprise's ledger (at page 517 of Paper-Book). Furthermore, the Counsel for the assessee submitted that the assessee discharged the initial burden of proof by providing comprehensive documentary evidence to establish the identity and creditworthiness of the parties and the genuineness of the transactions. These include ledger accounts, bank statements, income tax returns, and agreement documents. As per settled legal principles, once the assessee provides such evidence, the onus shifts to the Revenue to disprove the claims. In this case, however, the AO failed to conduct any independent

inquiry. No summons under Section 131 or notices under Section 133(6) were issued to the concerned parties, despite having full access to the supporting materials. Regarding the transaction with Ashtvinayak Realty Pvt. Ltd., the assessee had entered into registered agreements to sell various land parcels. Against the total consideration of ₹6 crore, the assessee received ₹4.90 crore in several installments. All corresponding documentation—including the breakup of payments, ledger accounts, the registered agreements and bank statements were submitted to the AO, yet the explanation was disregarded. As for the transaction involving Agarwal Enterprise, the assessee had advanced a sum of ₹1.90 crore to the firm on 22.11.2016 through proper banking channels. This amount was repaid by Agarwal Enterprise on 25.11.2016, again through banking channels. Thus, this was a loan repayment and not fresh receipt of funds. Supporting evidence have been placed on record viz. ledger entries (Pg. 517 of Paper-Book), contra-confirmation by Agarwal Enterprise (Pg. 518 of Paper-Book), and the acknowledgment of the income tax return of its proprietor (Pg. 519 of Paper-Book).

7. On going through the facts of the assessee's case and the documentary evidence submitted by the assessee coupled with the fact that the Ld. DR has not pointed to any infirmity in the submissions of the assessee or the observations made by CIT(Appeals) in the appellate order and keeping in view the settled principle that refund of money from earlier advances cannot be added under Section 68 of the Act, we find no infirmity in the order of Ld. CIT (Appeals) so as to call for any interference. We

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observe that since the transactions were duly recorded in the books, properly explained with documentation, and lacked any rebuttal or investigation by the AO or the Ld. DR before us during the course of arguments, Ld. CIT(A) was justified in deleting the addition of ₹6.80 crore.

8. In the result, appeal of the Department is dismissed.

This Order pronounced in Open Court on	23/06/2025
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Sd/-  
**(DR. BRR KUMAR)**  
**VICE PRESIDENT**

Ahmedabad; Dated 23/06/2025

TANMAY, Sr. PS

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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