

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

**BEFORE SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER AND  
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

**ITA No.1104/Ahd/2025  
Assessment Year: 2011-12**

Umeshbhai Ramanlal Shah, A-14/15, Aksharkunj Society, Pij Road, Near Telephone Exchange, Nadiad – 387 002. (Gujarat) <b>[PAN – AHCP5 7587 B]</b>	Vs.	Income Tax Officer, Ward – 5, Nadiad, 2 <sup>nd</sup> Floor, Ayakar Bhavan, Pij Road, Nadiad – 387 001. (Gujarat).
(Appellant)		(Respondent)
Assessee by	Shri D.K. Parikh, AR	
Revenue by	Smt. Mamta Singh, Sr. DR	
Date of Hearing	24.06.2025	
Date of Pronouncement	26.06.2025	

**ORDER**

**PER NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER:**

This appeal is filed by the assessee against the order of National Faceless Appeal Centre, Delhi (in short ‘the CIT(A)’) dated 30.04.2024 for the Assessment Year (A.Y.) 2011-12 in the proceedings under Section 144 read with Section 147 of the Income Tax Act, 1961 (hereinafter referred to as ‘the Act’).

2. There was a delay of 323 days in filing of this appeal. The assessee has filed an application for condonation of delay. It is explained that the assessee is a non-resident and was not aware of the proceedings initiated by the Assessing Officer. Hence, no compliance could be made in the course of assessment proceedings. The matter regarding filing of appeal

before the Ld. CIT(A) was assigned to the Tax Practitioner of Nadiad who had represented the matter before the Ld. CIT(A). The order of the Ld. CIT(A) was sent on e-mail id. [januh151199@gmail.com](mailto:januh151199@gmail.com) which was not accessible to the assessee and as a result he was not aware about the order of the Ld. CIT(A). When he contacted his Tax Practitioner about the status of the appeal, the matter was verified from the Income Tax portal when he came to know about the dismissal of the appeal by the Ld. CIT(A). In the process, there was delay of 323 days in filing the present appeal. The assessee has submitted that the delay was not intentional but due to bona-fide reasons. Considering the explanation of the assessee, the delay in filing the appeal is condoned.

3. The brief facts of the case are that no return of income was filed by the assessee for the A.Y. 2011-12. The Assessing Officer has received an information that there was cash deposit of Rs.18,32,350/- in the savings bank account of the assessee with Bank of Baroda during the Financial Year 2010-11. Based on this information, the case of the assessee was reopened and notice under Section 148 of the Act was issued after recording proper reasons. In the course of assessment proceedings, no compliance was made by the assessee. Therefore, the assessment was completed ex-parte under Section 144 read with Section 147 of the Act on 04.12.2018 at a total income of Rs.18,32,350/-.

4. Aggrieved with the order of the Assessing Officer, the assessee had filed an appeal before the Ld. CIT(A) which was dismissed vide the impugned order. Now, the assessee is in second appeal before us. The following grounds have been taken in this appeal: -

1. *The learned CIT(Appeals)/NATIONAL FACELESS APPEAL CENTRE [NFAC] DELHI has grievously erred both in law and on facts in not properly considering the ground No.1 of the appellant challenging reopening of assessment due to lack of reason regarding escapement of income merely to verify that there were deposit in bank account. There being no valid REASON TO BELIEVE that income escaped assessment, reassessment u/s.147 of IT Act ought to be quashed. It be so held now and Orders passed be quashed.*
2. *The Id. NFAC/CIT(A) also erred in law and on facts that as submitted to them vide submission dated 16.09.2019 [CIT(A) – II VADODARA] AND TO NFAC, AND AS PER SETTLED LEGAL POSIITON FROM SERIES OF DECISION, DEPOSITS IN BANK ACCOUNT IS NOT VALID REASON TO BELIEVE THAT IT WAS INCOME ESCAPING ASSESSMENT. It be so held now and reassessment made be cancelled and order of NFAC be set aside.*
3. *Without prejudice to the above grounds, both the lower authorities failed to appreciate that appellant having no source of any such income in India, addition by Invoking section 69A of the IT Act was not justified. It be so held now and addition of Rs.18,32,350/-be directed to be deleted now.*
4. *Without prejudice to the above grounds, the appellant having satisfactorily explained the source of deposits in bank account, the addition made by wrongly Invoking section 69A of IT Act deserved to be deleted. It be deleted now.*
5. *The NFAC/CIT(A) also erred in not appreciating that the appellant was not having any source of unexplained money as also noted by NFAC in para 4.3.4 of the appeal order and considering cash flow statement, when no books are required to be maintained, no addition u/s.69A of I. T. Act was permissible. It be so held now and addition of Rs. 18,32,350/-made u/s 69A be deleted.*
6. *The Id. NFAC/CIT(A) erred in not following and considering the decisions cited in submission as regards availability of cash from earlier withdrawals and not even commenting on the same. It be so held now.*
7. *The orders passed by lower authorities are in violation of principles of natural justice and are against sanction of law. It be so held now.*
8. *The Id. NFAC/CIT(A) ought to have allowed the appeal in toot.*
9. *The appellant having come to know about the order passed by Id. NFAC only recently as per affidavit, the delay in filing appeal be, it is prayed, condoned as there was no other reason to not file appeal against meritorious legal ground and merits in appeal.*
10. *The appellant craves leave to add, alter, modify or delete any of the grounds at the time of hearing.*

5. Shri D.K. Parikh, Ld. AR of the assessee submitted that no compliance could be made before the Assessing Officer in the course of assessment for the reason that the assessee was out of the country for most part of the time during the relevant period. It was submitted that before the Ld. CIT(A) the assessee had submitted a cash flow statement to explain the cash deposits in the bank account. However, the additional evidences filed by the assessee was not admitted and the matter was not examined on merits. The Ld. AR submitted that the Assessing Officer was not correct in treating all the cash deposits in the bank account as income of the assessee without taking into account the debit entries in the bank account. He, therefore, requested that the assessee may be allowed another opportunity to explain the cash deposits by setting aside the matter to the file of the Assessing Officer.

6. Per contra, Smt. Mamta Singh, Ld. Sr. DR had no objection if the matter was set aside to the file of the Assessing Officer.

7. We have carefully considered the rival submissions. It is found that the Assessing Officer had treated the entire cash deposits of Rs.18,32,350/- in the savings bank account of the assessee as unexplained credit under Section 69A of the Act. However, the Assessing Officer had neither called the copy of the bank statement nor examined the debit entries appearing in the bank statement. Before the Ld. CIT(A), the contention of the assessee that the assessee had opening cash balance of Rs.2,25,250/- and there were periodic withdrawals which were re-deposited in the account was not considered on merits. Though the Ld. CIT(A) had considered the cash withdrawals and observed that the assessee did not identify the persons to whom the amounts were given, no opportunity was allowed to the assessee to explain the transactions as

appearing in the bank statement. In the remand report the AO had contended that the assessee had failed to produce authentic copy of bank statement. In fact, nothing prevented the AO to independently obtain the authentic copy of the statement from the bank. The AO didn't examine the submissions of the assessee on merits and rejected the additional evidences on flimsy grounds. Under the circumstances, we deem it proper to set aside the matter to the file of the Assessing Officer with a direction to allow another opportunity to the assessee to explain the source of cash deposits in the bank account. The assessee is also directed to comply before the Assessing Officer and respond to the notices issued by the Assessing Officer. The assessee will also be free to produce the additional evidences, if any, in order to explain the cash deposits. In case the assessee does not co-operate in the set aside proceedings, the Assessing Officer will be free to complete the assessment on the basis of the materials available on record.

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

Order pronounced in the open Court on this 26 <sup>th</sup> June, 2025.
---

*Sd/-*  
**(T.R. SENTHIL KUMAR)**  
Judicial Member

*Sd/-*  
**(NARENDRA PRASAD SINHA)**  
Accountant Member

**Ahmedabad, the 26<sup>th</sup> June, 2025**

**PBN/\***

*Copies to:* (1) *The appellant*  
(2) *The respondent*  
(3) *CIT*  
(4) *CIT(A)*  
(5) *Departmental Representative*  
(6) *Guard File*

*TRUE COPY*

*By order*

*Assistant Registrar  
Income Tax Appellate Tribunal  
Ahmedabad benches, Ahmedabad*