

**आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ SMC, अहमदाबाद ।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"SMC" BENCH, AHMEDABAD**

**श्री संजय गर्ग, न्यायिक सदस्य एवं**  
**श्री नरेन्द्र प्रसाद सिन्हा, लेखा सदस्य के समक्ष।**

**Before Shri Sanjay Garg, Judicial Member And**  
**Shri Narendra Prasad Sinha, Accountant Member**

Sl. No(s)	आयकर अपील सं/ ITA No(s)	निर्धारण वर्ष/ Assessment Year(s)	Appeal(s) by :	
			अपीलकर्ता / Appellant	प्रत्यर्थी / Respondent
1.	650/Ahd/2023	2006-07	Bhumika Navin Patel L/H. of Late Navinbhai Punjabhai Patel 1, Priya Park Society Bank of India Lane Ellora Park Subhanpura, Vadodara - 390 002 PAN: CNIPP 1973 L (Assessee)	The ITO Ward-1(2)(2) Vadodara - 390 007  (Revenue)
2.	651/Ahd/2023	2007-08	Assessee	Revenue
3.	652/Ahd/2023	2008-09	Assessee	Revenue
4.	653/Ahd/2023	2009-10	Assessee	Revenue
5.	654/Ahd/2023	2010-11	Assessee	Revenue

Assessee by :	Shri Jigar Adhyaru, AR
Revenue by :	Shri Ravindra, Sr.DR

सुनवाई की तारीख / **Date of Hearing** : 07/05/2025  
घोषणा की तारीख / **Date of Pronouncement**: 31/07/2025

**आदेश/ORDER**

**Per Sanjay Garg, Judicial Member:**

Ms. Bhumika Navin Patel, Legal Heir of late Shri Navinbhai Punjabhai Patel through the captioned appeals has agitated levy of penalty u/s.271(1)(c)

of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) for different Assessment Years (AYs).

2. The brief facts of the case are that the assessee Shri Navinbhai Punjabhai Patel was a farmer. The Assessing Officer (AO) noticed that there were credits both cash and cheque/transfer in the bank account of the assessee Shri Navinbhai Punjabhai Patel in different assessment years. He, therefore re-opened the assessment for AYs 2006-07 to 2010-11 and asked the assessee to explain the source of the deposits in his bank account. During the course of assessment proceedings, the assessee Shri Navinbhai Patel died, therefore, the source of the deposits remained unexplained before the AO. The AO did not join the Legal Heir of deceased Navinbhai Patel and proceeded to frame the assessment for the said assessment years in the name of deceased assessee Shri Navinbhai Patel. The AO made the addition of Rs.1,96,000/- for AY 2006-07, of Rs.32,85,573/- for AY 2007-08, of Rs.61,53,382/- for AY 2008-09, of Rs.37,66,166/- for AY 2009-10 and of Rs.1,21,43,969/- for AY 2010-11.

3. Being aggrieved by the said additions, the Legal Heir of the assessee; namely, Ms.Bhumika Navinbhai Patel filed appeals before the Commissioner of Income Tax (Appeals) [hereinafter referred to as “the CIT(A)]. In the meanwhile, the AO also initiated penalty proceedings u/s.271(1)(c) of the Act, in the name of late Shri Navinbhai Patel through his Legal Heir, Ms.Bhumika Navinbhai Patel. In the quantum appeals, the Ld.CIT(A) gave part relief and the addition for different assessment years was confirmed to the extent of Rs.1,72,100/- for AY 2006-07, of Rs.26,65,992/- for AY 2007-08,

of Rs.49,34,647/- for AY 2008-09, of Rs.21,51,890/- for /AY 2009-10 and of Rs.62,22,690/- for AY 2010-11.

3.1. The AO also levied the impugned penalty u/s.271(1)(c) of the Act in relation to aforesaid quantum additions confirmed by the Ld.CIT(A). The AO accordingly levied penalty of Rs.32,230/- for AY 2006-07, of Rs.8,41,280/- for AY 2007-08, of Rs.16,19,500/- for AY 2008-09, of Rs.6,23,800/- for AY 2009-10 and of Rs.13,89,220/- for AY 2010-11.

4. Being aggrieved by the aforesaid levy of penalty for different assessment years, the Legal Heir namely, Ms.Bhumika Navinbhai Patel of deceased assessee Shri Navinbhai Patel preferred appeals for different assessment years before the Ld.CIT(A), however, remained unsuccessful. She , therefore, has come in appeals for different assessment years before this Tribunal.

5. We have heard the rival contentions and gone through the record. In these cases, there were mostly bank transfers of the amounts in the bank account of the deceased assessee Shri Navinbhai Patel. Apart from that, there were some minor cash deposits also. The assessee Shri Navinbhai Patel 'expired' during the assessment proceedings itself. Therefore, the source of such deposits remained unexplained in the assessment proceedings. Under the circumstances, the AO made quantum additions as noted above, on the basis of preponderance of probabilities assuming the said deposits as income of the deceased assessee from unexplained sources. It is pertinent to mention here that the AO did not join Legal Heir of deceased assessee in the

assessment proceedings. Though the major amount was deposited through banking channel by way of cheque/bank transfer, however, the AO did not make any effort to enquire and verify the persons/sources of deposits, which he could have verified by calling the details of the deposits from the bank and by issuing notice to the depositor/the concerned person from whose bank account the aforesaid amounts were transferred to the account of the deceased assessee. Thus, the additions were made not on the basis of any substantive finding that the aforesaid deposits were the income of the assessee from unexplained sources, rather, the additions were made on the basis of presumption as the assessee could not explain the source of deposits as he had expired during the pendency of assessment proceedings. The Legal Heir of the deceased assessee has already approached the Hon'ble High Court raising the legal ground of validity of the additions made by the AO in the name of deceased assessee and the matter is pending before the Hon'ble High Court. However, so far as the validity of levy of penalty u/s.271(1)(c) is concerned, we note that the penalty u/s.271(1)(c) of the Act is leviable, if the assessee has concealed his income or has furnished inaccurate particulars of income. It is the deceased assessee who could have better explained the source of deposits before the AO. The levy of penalty u/s.271(1)(c) of the Act, requires culpability of the assessee in furnishing of inaccurate particulars of income or concealment of income. It was the assessee, himself, who could have explained to the AO that whether he had furnished inaccurate particulars of income or concealed the income. It has been held, time and again, that mere deposit of an amount into the bank account of an assessee does not *ipso facto* lead to the presumption that the same is the income of the assessee. So far as the element of culpability is concerned, it has to be

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established that such an assessee has furnished inaccurate particulars of income or concealed his income. It was the assessee himself who could have proven his case before the AO. However, assessee was no more in this world even before the initiation of the penalty proceedings and as such was not expected to prove the non- culpability/innocence before the AO. It cannot be expected from the Legal Heir of deceased assessee to prove before the AO that the deceased assessee had not furnished inaccurate particulars of income or concealed his income. As noted above, the addition to the income of the deceased assessee was made on the basis of preponderance of probabilities and it was not a case, where it was conclusively proved that the said deposits were out of the income of the assessee source of which was not disclosed to the Income-tax authorities. Under the circumstances, in our view, it will not be justified to burden the Legal Heir of the assessee for the penal consequences relating to the act or omission of the deceased assessee, which otherwise, is not established on the file. Hence, under the circumstances, the impugned penalty levied/confirmed by the lower authorities is not sustainable and the same is, accordingly, ordered to be deleted relating the captioned assessment years.

6. In the result, all the appeals filed by the appellant Ms.Bhumika Navin Patel, Legal Heir of Late Navinbhai Punjabhai Patel are hereby allowed.

**Order pronounced in the Open Court on 31/07/2025.**

**Sd/-**  
**( Narendra Prasad Sinha )**  
**Accountant Member**

अहमदाबाद / Ahmedabad, दिनांक / Dated 31/07/2025  
 टी. सी. नायर, व. नि. स. / T.C. NAIR, Sr. PS

**Sd/-**  
**( Sanjay Garg )**  
**Judicial Member**

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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)- (NFAC), Delhi
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , अहमदाबाद/DR, ITAT, Ahmedabad.
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