

IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, AHMEDABAD
BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER

ITA No.137/Ahd/2025
(Assessment Year: 2011-12)

Pravinbhai Jethabhai Patel, Teen Khadki, Nr. Bar Ni KhadKi, Village-Nar, Tal. Petlad, Kheda-388150. [PAN :BIQPP9029 K]	Vs.	Income Tax Officer, Ward-5, Nandiad.
(Appellant)	..	(Respondent)
Appellant by :	Shri Jamin Shah, AR	
Respondent by:	Shri BP Makwana, Sr. DR	
Date of Hearing	16.07.2025	
Date of Pronouncement	31.07.2025	

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-

This appeal has been filed by the assessee against the order dated 21.11.2024, passed by the Ld. Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred to as "CIT(A)" for short), u/s 250 of the Income-tax Act, 1961, (hereinafter referred to as "the Act" for short) for the Assessment Year 2011-12.

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

01. That the Ld. CIT(A), NFAC has erred both in law and on facts while sustaining the addition of Rs. 36,29,000/- on account of sale consideration of agriculture land, and therefore it requires to be deleted

02 That the Ld. CIT(A), NFAC and Ld. A.O has accepted that the amount of cash received on account of sale of agriculture land, however the addition of Rs 36,29,000/- was sustained u/s 56(2)(vii)(a) of the Income Tax Act, 1961 is against the provision of law and therefore it requires to be deleted.

03. That the appellant has submitted the duly signed banakhat before the CIT(A) and before the A.O. during the remand proceedings, however without point out any defect the CIT(A) has sustained the addition on account of loss of revenue to another government department is against the Income tax act, 1961 Therefore the addition sustained by Ld. CIT(A), NFAC for Rs 36,29,000/-may please be deleted

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04. The reasons recorded u/s 147 and addition made are on different facts and therefore the reasons recorded are vague and invalid. Therefore the whole proceedings are invalid in law and required to be quashed

05. That the appellant has no taxable Income however the Lid AO has initiated penalty u/s 271(1)(c) of the Income Tax Act, 1961 ay please be dropped:

06. That the appellant has neither committed default of Sec. 210 nor made any default in payment of advance tax and therefore unwanted interest charged u/s 234A 234B and 234C requires to be deleted.

3. The assessee has raised following additional grounds of appeal:-

"That the order passed u/s 148 of the IT Act, 1961 dated 26.12.2016 without issue of notice u/s 142(2) of the Income Tax Act, 1961, therefore the re-assessment order passed is invalid and required to be quashed."

4. The brief facts of the case are that the assessee is an individual engaged in agricultural activity. For the year under consideration, the assessee had not filed his return of income as his agricultural and interest income were below taxable limits. Based on information received, the Assessing Officer noted cash deposits of Rs.25,69,000/- and term deposits of Rs.30,00,000 in the assessee's bank account during FY 2010-11.

4.1 The case the assessee was reopened u/s 147, and notice u/s 148 was issued on 27.03.2018. In response, the assessee filed his return declaring income of Rs.75,844/-. During the assessment proceedings, it was submitted that the assessee sold agricultural land along with co-owners for a total consideration of Rs.83,34,500/-, of which the assessee's share was Rs.41,67,250/-. While Rs.4,88,250/- was received by cheque, as reflected in the registered sale deed; the balance amount of Rs.36,79,000/- was received in cash and deposited in the bank.

4.2 The Assessing Officer held that since the registered sale deed reflected only Rs.4,88,250/-, the remaining Rs.36,79,000/- was without consideration and, therefore, brought it to tax u/s 56(2)(vii)(a) of the Act.

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5. Aggrieved by the order of the Assessing Officer, the assessee preferred an appeal before the Ld. CIT(A) who confirmed the addition to the extent of Rs.36,29,000/-, after allowing the standard deduction of Rs.50,000/-.

6. Aggrieved by the order of the Ld. CIT(A), the assessee is now in appeal before the Tribunal.

7. During the course of hearing before us, the Ld. AR contended that no valid notice u/s 143(2) was served before finalization of the reassessment order u/s 147 of the Act. He submitted that though the Assessing Officer mentions issuance of notice u/s 143(2) dated 11.07.2018, there is no evidence on record, nor reflected it on the e-filing portal. The Ld. AR further submitted that inspite of repeated requests by the assessee requesting to provide a copy of the said notice, nothing was supplied. In this regard, the Ld. AR relied on the judgement of Hon'ble Supreme Court in the case of ACIT v. Hotel Blue Moon (321 ITR 362), wherein the Hon'ble Court has categorically held that issuance of notice u/s 143(2) is mandatory even in reassessment proceedings. The Ld. AR also relied upon the judgment of Hon'ble jurisdictional High Court in the case of CIT v. Sukhini P. Modi (367 ITR 682) in this regard.

8. The Ld. DR, on the other hand, could not controvert the legal contentions made by the Ld. AR, but simply relied upon the orders of the authorities below.

9. We have heard the rival submissions and the material available on record. We find that, in the present case, the Revenue has failed to produce any evidence to establish that notice u/s 143(2) dated 11.07.2018 was served upon the assessee. It is also a fact on record that no such notice is available either on the ITBA or the e-filing portal, and even the requests made

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by the assessee in this regard remained unanswered. Therefore, in view of the binding precedents of the Hon'ble Apex Court and the jurisdictional High Court, we hold that the non-issuance and non-service of notice u/s 143(2) renders the reassessment order null and void. Liberty is given to the Revenue to approach the Tribunal in case they could prove issuance of notice u/s 143(2) of the Act.

10. As the reassessment proceedings are held to be invalid, the other grounds raised on merits have become academic and are not adjudicated upon.

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

The order is pronounced in the open Court on 31.07.2025

Sd/-

(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

Sd/-

(DR. B.R.R. KUMAR)
VICE-PRESIDENT

Ahmedabad; Dated 31.07.2025

***/btk*

आदेश की प्रतिलिपि □ ग्रेषित/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.

True Copy

आदेशानुसार/ BY ORDER,

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