

आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।

**In The Income Tax Appellate Tribunal, “SMC”
Rajkot Bench, Rajkot**

Before Dr. Arjun Lal Saini, Accountant Member

आयकरअपील सं./ITA No.146/RJT/2026
निर्धारण वर्ष/Assessment Year: (2015-16)

Jayaben Karsanbhai Dalvadi 456/2 Gori Darvaja, Halvad, Surendranagar, Gujarat-363330	Vs.	The Income Tax Officer Ward - 1, Surendranagar-363330
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: BTUPD5206M		
(Appellant)		(Respondent)

Appellant by : Shri Kalpesh Doshi, Ld. AR
Respondent by : Shri Gopi Nath Chaubey, Ld. Sr. DR

Date of Hearing : 20/02/2026
Date of Pronouncement : 15/05/2026

आदेश / ORDER

Per, Dr. Arjun Lal Saini, AM:

Captioned appeal filed by the assessee, pertaining to Assessment Year 2015-16, is directed against the order passed under section 250 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) by National Faceless Appeal Centre (NFAC), Delhi/Commissioner of Income-tax (Appeals), dated 21/11/2025, which in turn arises out of an order passed by the Assessing Officer dated 14/03/2023, u/s 147 r.w.s. 144B of the Income Tax Act, 1961.

2. Grounds of appeal raised by the assessee are as follows:

“1. That, the Ld. CIT(A) has wrongly confirmed the re-opening of the assessment u/s 143(3) r.w.s. 147 r.w.s. 144B of the I.T. Act, 1961.(a) The order u/s 147 of

the Act has been passed in violation of provisions of section 149(1) (b) of the Act and CBDT instruction no. 01/2022, dated 11th May, 2022. (b) The Ld. assessing officer has not obtained the approval u/s 151 of the Act. (c) The reopening is based on incorrect facts (d) The assessment has been reopened merely on the basis of cash deposits in the bank account and not by quantifying the amount of income escapement (e) Notice issued by Jurisdictional Assessing Officer is invalid, Jassessing officer lacks jurisdiction under faceless scheme (f) The notice issued u/s 143(2) of the Act is in violation of CBDT Instruction F. No. 225/157/2017/ITA-II dated 23.06.2017.

2. *That, the Ld. CIT(A) has wrongly confirmed the addition made of Rs. 20,00,000/- on account of cash deposits u/s 69A of the I.T. Act, 1961.*
3. *That, the Ld. CIT(A) has wrongly confirmed the application of the provision of section 115BBE of the I.T. Act, 1961.*
4. *That, the Ld. CIT(A) has wrongly confirmed penalty proceedings initiated u/s 271(1)(c) and 271F of the I.T. Act, 1961*
5. *That, the findings of the Ld. CIT(A) are not justified and are bad-in-law.*
6. *The assessee craves to add, amend, alter or delete any of the above grounds of appeals.”*

3. Succinctly, the factual panorama of the case is that assessee before me is an Individual. The assessee filed the return of income for assessment year (AY) 2015-16 on 20.02.2023, declaring total income of Rs.5,040/-. The assessee was a non-filler. As per the information available on record, the assessee has made cash deposit of Rs. 38,00,000/- during the financial year (F.Y.) 2014-15. It was also noticed by the assessing officer that assessee has received interest to the tune of Rs. 13,109/-. Therefore, there was reason to believe that the income of the assessee of Rs. 38,13,109/-, chargeable to tax has escaped assessment within the meaning of section 147 of the Act. Therefore, a notice u/s 148 of the Act, was issued to the assessee on 31/03/2022, after obtaining the requisite approval of the competent authority. Another notice u/s 142(1) of the Act along with questionnaire dated 17/01/2023 and 03/02/2023 was also duly served on the assessee.

4. In response to above notices, the assessee submitted her reply on 21/02/2023 along with copy of computation of income, Balance sheet, Profit and

loss account and statement of Saurashtra Gramin Bank account no. 78006441032, showing the banking transaction during the year. It is claimed by the assessee that she is an agriculturist since last 25 years and derives the income from agricultural only.

5. However, the assessing officer rejected the above reply of the assessee and held that the assessee has derived net agricultural income of Rs. 8,47,988/-, therefore, it cannot be believed that she could have saved some income considering her joint family's expenses for maintenance. The assessee has not produced any proof regarding the agricultural produce. In this situation, it is hard to believe the assessee's contention that the cash deposits were made out of past savings and agricultural income, thus, it is clear that the assessee has failed to establish the source of the cash deposit of Rs. 20,00,000/-. Therefore, assessing officer treated the cash deposit of Rs. 20,00,000/-, as income from other source, as "unexplained money" u/s. 69A of the Act.

6. Aggrieved by the order of the assessing officer, the assessee carried the matter in appeal before the Ld. CIT(A), who has confirmed the action of the assessing officer. The Ld.CIT(A) noticed that the procedural grounds raised regarding reassessment by the assessee are general in nature, unsupported by facts, and do not affect the validity of the order, as no material has been placed on record to controvert the findings of the Assessing Officer.

7. On merit, the learned CIT(A) noticed that assessee claimed that the cash deposits were made out of agricultural income, however, no credible evidence was furnished to substantiate such claim. From the land holding documents, the assessee failed to produce any proof of actual agricultural activity, such as crop details, yield, sale pattis, bills, vouchers, expenditure on seeds, fertilisers, pesticides, labour, or other agricultural operations. The alleged vouchers

submitted were self-made, in identical handwriting, lacking quantities, and lacking any statutory market deductions, rendering them unreliable. Accordingly, the addition of Rs.20,00,000/-, as unexplained money under section 69A of the Act, was upheld.

8. Aggrieved by the order of the Ld. CIT(A), the assessee is in further appeal before this Tribunal.

9. Shri Kalpesh Doshi, Learned Counsel for the assessee submitted that during the assessment proceedings, the assessing officer has recorded the reasons stating that income of the assessee was above Rs.50 Lakhs, therefore, the assessment of the assessee can be reopened under section 147 of the Act, as in the assessee's case, income has escaped assessment. However, this finding of the assessing officer is wrong, as the actual income of the assessee, was Rs.38 lakhs, only, which has escaped from assessment and not Rs.50 Lakhs. Therefore, as per Section 149(1)(b) of the Act, where the escaped income is below Rs.50 Lakhs, then assessment cannot be reopened, after expiry of 3 years. Therefore, Ld. Counsel for the assessee submitted that on this technical ground, the addition made by the assessing officer should be deleted. The Ld. Counsel further submitted that this issue is also covered by the judgment of the Hon'ble Supreme Court in the case of Union of India vs. Rajeev Bansal, [2024] 167 taxmann.com 70 (SC), as the assessment order involved in the assessee's case is for the assessment year (A.Y.) 2015-16 wherein if the income escaped from assessment is more than Rs.50 Lakhs, then only the re-assessment proceedings can be initiated up to 10 years. For that, Ld. Counsel for the assessee relied on the judgment of the Rajeev Bansal (supra), wherein it was held as follows:

“49. The first proviso to Section 149(1)(b) requires the determination of whether the time limit prescribed under section 149(1)(b) of the old regime continues to exist for the assessment year 2021-2022 and before. Resultantly, a notice under Section 148 of the new regime cannot be issued if the period of six years from the end of the relevant assessment year has expired at the time of issuance of the notice. This also ensures that

the new time limit of ten years prescribed under section 149(1)(b) of the new regime applies prospectively. For example, for the assessment year 2012-2013, the ten year period would have expired on 31 March 2023, while the six year period expired on 31 March 2019. Without the proviso to Section 149(1)(b) of the new regime, the Revenue could have had the power to reopen assessments for the year 2012-2013 if the escaped assessment amounted to Rupees fifty lakhs or more. The proviso limits the retrospective operation of Section 149(1)(b) to protect the interests of the assesseees.

50. Another important change under section 149(1)(b) of the new regime is the increase in the monetary threshold from Rupees one lakh to Rupees fifty lakhs. The old regime prescribed a time limit of six years from the end of the relevant assessment year, if the income chargeable to tax which escaped assessment was more than Rupees one lakh. In comparison, the new regime increases the time limit to ten years if the escaped assessment amounts to more than Rupees fifty lakhs. This change could be summarized thus:

<i>Regime</i>	<i>Time limit</i>	<i>Income chargeable to tax which has escaped assessment</i>
<i>Old regime</i>	<i>Four years but not more than six years</i>	<i>Rupees one lakh or more</i>
<i>New regime</i>	<i>Three years but not more than ten years</i>	<i>Rupees fifty lakhs or more</i>

51. Given Section 149(1)(b) of the new regime, reassessment notices could be issued after three years only if the income chargeable to tax which escaped assessment is more than Rupees fifty lakhs. The proviso to Section 149(1)(b) limits the retrospectivity of that provision with respect to the time limits specified under section 149(1)(b) of the old regime.”

10. Learned Counsel further submitted that this issue is also covered by the judgment of the Hon’ble Supreme Court in the case of Union of India vs. Ashish Agarwal, [2022] 138 taxmann.com 64 (SC), wherein it was held as follows:

“6.6 Substituted section 149 is the provision governing the time limit for issuance of notice under section 148 of the IT Act. The substituted section 149 of the IT Act has reduced the permissible time limit for issuance of such a notice to three years and only in exceptional cases ten years. It also provides further additional safeguards which were absent under the earlier regime pre-Finance Act, 2021.

7. Thus, the new provisions substituted by the Finance Act, 2021 being remedial and benevolent in nature and substituted with a specific aim and object to protect the rights and interest of the assessee as well as and the same being in public interest, the respective High Courts have rightly held that the benefit of new provisions shall be made available even in respect of the proceedings relating to past assessment years, provided section 148 notice has been issued on or after 1st April, 2021. We are in complete agreement with the view taken by the various High Courts in holding so.”

11. Therefore, Ld. Counsel for the assessee, submitted that in assessee's case, the income escaped from the assessment is below Rs.50 Lakhs, that is, it is only Rs.38 Lakhs, therefore, reopening of the assessment is not possible and hence, the re-assessment proceedings should be quashed.

12. On the other hand, the Ld. DR for the Revenue relied on the finding of the Assessing Officer.

13. We have heard the rival parties and have gone through the material placed on record. The assessee is an individual, and engaged in agriculture activity since past many years. The assessee was served with the show cause notices u/s 148A(b) of the Act, on 17/03/2022. The annexure containing the reasons for reopening is pasted hereunder for ready reference:

ANNEXURE

Non-filer Monitoring System on INSIGHT Portal has flagged your case being "Non-filer". The following information in your case has been flagged on INSIGHT Portal in accordance with the Risk Management Strategy formulated by the CBDT as no return of income has been filed by you for A.Y. 2015-16. The same falls under the definition of explanation 1(i) of section 148 of the Act which became effective from 01.04.2021.

1. The assessee has deposited cash to the tune of Rs. 76,00,000/- In Saurashtra Gramin Bank, Halvad Branch during the FY 2014-15 to relevant to AY 2015-16 are as under:-

Sr no.	Dated	Amount of deposited
1	31/03/2015	38,00,000/-
2	31/03/2015	38,00,000/-

The above mentioned information has been perused. It is observed that the assessee has not filed its Return of Income for A.Y. 2015-16. Since, no return of income has been filed by the assessee, therefore, there is an escapement of Income of Rs. 76,00,000/- which is being represented in the form of asset. Thus, the basic criteria of income chargeable to tax, represented in the form of asset and amount escaping assessment greater than fifty lakh rupees, as specified u/s 149(1)(b) of the I.T. Act has been satisfied in the instant case.

In view of the above information received and verified by this office and in accordance with section 148A(b) of the IT Act, 1961, you are requested to show cause as to why a notice under section 148 of the IT Act, 1961 should not be issued on the basis of above mentioned information which suggests that income chargeable to tax amounting to Rs. 76,00,000/- has escaped assessment in your case for A.Y. 2015-16.

RAJESH BALAN PILLAI
WARD 1, SURENDRANAGARA

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This document is digitally signed
Signer: Rajesh Pillai
Date: 17 March 2022
Location: GULBARGA

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The assessee also submitted before the Bench, notice u/s 148A(b) of the Act. The assessing officer has contended the incorrect figure of cash deposits, that is, Rs. 76,00,000/- in the order u/s 148A(d) of the Act. It is stated by Id.Counsel for the assessee, that same information containing the same amount and same date has been uploaded twice on the Insight Portal. It is further submitted by learned Counsel for the assessee that the actual cash deposit in the bank account is only Rs.38,00,000/-, which is below Rs. 50,00,000/-.The table reflecting the cash deposits in the bank account is a reproduced below:

<i>Sr. No.</i>	<i>Date</i>	<i>Amount (in Rs.)</i>
1.	17/10/2014	20,00,000/-
2.	13/11/2014	18,00,000/-
	<i>Total</i>	<i>38,00,000/-</i>

In order to substantiate the claim as to cash deposits, of Rs. 38,00,000/-, a copy of bank account is submitted by the assessee, before the Bench. It is further stated by Id.Counsel for the assessee, that the reassessment proceedings have been initiated by the Department in violation to Instruction No. 1/2022 of the Central Board of Direct Taxes (CBDT). As per the said circular, the reassessment notices pertaining to the assessment years, that is, A.Y. 2013-14, A.Y. 2014-15, A.Y. 2015-16, A.Y. 2016-17 and A.Y. 2017-18 shall be issued by following the amended provisions of the Income Tax Act.

14. Further, vide para 7.1 of the said circular, it has been expressly stated by the CBDT that if the income escapement or the likelihood of income escapement does not exceed Rs. 50,00,000/- and more than 3 years have been elapsed from the end of assessment year, than no assessment shall be reopened in the case of such assessees. The relevant paragraph of such circular is reproduced below, for ready reference:

“7.1 Hon'ble Supreme Court has directed that information and material is required to be provided in all cases within 30 days. However, it has also been noticed that notices

cannot be roved in a case for AY 2013-14, AY 2014-15 and AY 2015-16, if the income escaping assessment, in that case for that year, amounts to or is likely to amount to less than fifty lakh rupees. Hence, in order to reduce the compliance burden of assesseees, it is clarified that information and material may not be provided in a case for AY 2013-14, AY 2014-15 and AY 2015-16, if the income escaping assessment, in that case for that year, amounts to or is likely to amount to less than fifty lakh rupees. Separate instruction shall be issued regarding procedure for disposing these cases.

I note that in the assessee's case under consideration, the transactions alleged upon the assessee does not exceed Rs.50,00,000/-. The cash deposits alleged in the bank account is Rs. 38,00,000/-, therefore, the case of assessee cannot be reopened.

15. I note that the issue is pertaining to assessment year (A.Y.) 2015-16 and the show-cause notice for reopening the assessment is issued on 17/03/2022 and the notice u/s 148 of the Act is issued on 31/03/2022, that is, the notice has been issued after the lapse of 3 years from the end of relevant assessment year, therefore, the reopening of assessment in the case of assessee is barred by limitation. The Department can reopen the assessment beyond the specific time-limit of 3 years only, if the conditions as prescribed u/s 149(1)(b) of the new Act are fulfilled and the Department can reopen the assessment only if the escapement or likelihood of income escapement is Rs. 50,00,000/- or more. In the light of the above facts, relevant provision of section 149(1)(b) of the Act is reproduced below for ready reference:

“[Time limit for notice.

149(1)(b)

“if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form

(i) an asset

(ii) expenditure in respect of a transaction or in relation to an event or occasion; or

(iii) an entry or entries in the books of account,

which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more:]”

Therefore, I note that the exaggerated transaction value of Rs. 76,00,000/- is mentioned in the show-cause notice u/s 148A(b) only in order to circumvent the provisions of this Act, whereas, the actual amount is Rs.38,00,000/-. Therefore, the reopening of assessment in the case of assessee is time-barred and bad-in-law and the assessment order must be quashed. For that reliance is placed on the judgement in the case of Ganesh Dass Khanna vs. Income-tax Officer [2023] 156 taxmann.com 417 (Delhi), wherein it was held, as follows:

“25. Having heard the learned counsels for the assessee and the revenue, as was pointed out right at the outset, the only issue which arises for our consideration (and that too concerning AY 2016-17 and 2017-18) is whether the impugned order passed under section 148A(d) and the consequent notice issued under section 148 of the amended 1961 Act [as obtaining with the enactment of FA 2021], falls foul of the limitation prescribed in clause (a) of Sub-Section (1) of Section 149?

26. Section 149(1) of the amended 1961 Act mandates that no notice under section 148 would be issued for the relevant AY if three (03) years have elapsed from the end of the said AY. The assessing officer can take recourse to the extended limitation period if the conditions precedent prescribed in clause (b) of Sub-Section (1) of Section 149 are fulfilled. In other words, in a case where three (03) years from the end of the relevant AY have elapsed, the assessing officer can issue a notice under section 148 provided the conditions prescribed in clause (b) of Section 149 (1) of the amended 1961 Act are fulfilled.....”

16. In view of the reasons set out above, as also bearing in mind entirety of the case, I am of the considered view that the reasons recorded by the Assessing Officer, as set out earlier, were not sufficient reasons for reopening the assessment proceedings. To reopen the assessment, after the expiry of 3 years, the income escaped from assessment should be Rs. 50,00,000/- or more, whereas in the assessee's case under consideration, the income, as escaped from assessment is only to the tune of Rs. 38,00,000/-. I, therefore, quash the reassessment proceedings. As the reassessment itself is quashed, all other issues on merits of

the additions, in the impugned assessment proceedings, are rendered academic and infructuous.

17. In the result, the appeal of the assessee, is allowed in the terms indicated above.

Order is pronounced in the open court on 15/05/2026.

Sd/-
(Dr. Arjun Lal Saini)
लेखा सदस्य/Accountant Member

राजकोट/Rajkot

दिनांक/ Date: 15/05/2026

Copy of the order forwarded to :

- The assessee
- The Respondent
- CIT
- The CIT(A)
- DR, ITAT, RAJKOT
- Guard File

By order

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Assistant Registrar/Sr. PS/PS
ITAT, Rajkot