आयकरअपीलीयअधिकरण, राजकोट न्यायपीठ, राजकोट।
In The Income Tax Appellate Tribunal Rajkot Bench, Rajkot

Before Dr. Arjun Lal Saini, Accountant Member
And
Dr. Dinesh Mohan Sinha, Judicial Member

आयकरअपीलसं./ITA No. 120/Rjt/2026
(निर्धारणवर्ष/Assessment Year: (2017-18)

Shri Shamjibhai Kanabhai Mata, Post No.18, Bholenath Nagar, Anjar-370110, Gujarat	**Vs.**	The Income Tax Officer, Ward 2, Gandhidham Aayakar Bhavan, Sector-8 Gandhidham, Gujarat 370110
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: **ARSPM6956G**		
(अपीलार्थी/Assessee)		**(प्रत्यर्थी/Respondent)**

Assessee by : Shri Mehul Ranpura, Ld. AR
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR

Date of Hearing : 02/04/2026
Date of Pronouncement : 21/04/2026

ORDER

Per, Dr. Arjun Lal Saini, AM:

Captioned appeal filed by the assessee, pertaining to Assessment Year 2017-18, is directed against the order under section 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") by Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC) Delhi, dated 13.11.2025, which in turn arises out an order passed by the Assessing Officer u/s 147 r.w.s. 144B of the Act, on 25.05.2023.

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

1. The grounds of appeal mentioned hereunder are without prejudice to one another.

2. The Ld. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi (hereinafter referred to as the "CIT(A)"] erred on facts as also in law in rejecting ground of appeal related to validity of notice issued u/s 148 of the Income tax Act, 1961. That on facts as also in law, proceedings-initiated u/s. 147 of the Act is invalid and assessment finalized on such invalid initiation deserves to be quashed and may kindly be quashed.

3. The Ld. CIT(A)erred on facts as also in law in confirming addition of Rs. 15,50,000/- u/s. 69A of the Act on the alleged ground that assessee failed to explain source of the cash deposit of Rs. 15,50,000/- during the demonetization period alongwith necessary supporting. The addition confirmed is totally unjustified and uncalled for and deserves to be deleted and may kindly be deleted.

4. Your Honour's assessee craves leave to add, to amend, alter, or withdraw any or more grounds of appeal on or before the hearing of appeal.

3. Succinctly, the factual panorama of the case is that assessee before us is an Individual.The assessee had deposited cash during the demonetization period, that is, 09.11.2016 to 31.12.2016 to the tune of Rs.15,50,000/-, in the bank account No. 394868970, maintained with Central Bank of India. The information was with the Department, that cash was deposited during the demonetization period, that is, 09.11.2016 to 31.12.2016, to the tune of Rs. 15,50,000/-, in the bank account No. 394868970, maintained with Central Bank of India by the assessee, remained un-explained. In the instant case notice u/s 148 of the Income Tax Act, 1961 was initially issued on 29.04.2021. As per the ruling given by the Hon'ble Supreme Court in the case of Union of India Vs. Ashish Agarwal dated 04/05/2022 and Instruction No. 01/2022 dated 11/05/2022 issued by the CBDT, the notice dated 29.04.2021 issued u/s 148 of the Act, is deemed to have been issued under section 149A of the Act, as substituted by the Finance Act, 2021 and is construed or treated to be show-cause notice in terms of section 148A(b) of the Act. Accordingly, order u/s 148A(d) was passed on 30/07/2022, after providing necessary information and documents to the assessee and also after providing reasonable opportunity of being heard to the

assessee. Subsequently, order u/s 148A(d) of the Act was passed on 30.07.2022 and notice u/s 148 of the Act, was issued on 30.07.2022.

4. In response to the notice of the assessing officer, the assessee submitted written submission, before the assessing officer, along with documentary evidences, which is reproduced below:

> *"Your assessee had filed return of income on 08.02.2023 vide e acknowledgment number 950948950080223. Delay in filing return of income was due to technical error on portal while submitting XML file of return. Your assessee has declared income under Section 44AD of the Act on presumptive basis and hence copy of profit and loss account and balance sheet is not furnished. Copy of statement of income as required is attached herewith. Your assessee wishes to submit that he is engaged in the business of transportation during the year under consideration. Copy of computation of income is already attached as above. Your assessee has declared income under section 44AD of the Act, hence he was not required to maintain books of accounts. Cash flow statement and copy cash book is not submitted as the same was not required to be maintained. During the year under consideration your assessee was engaged in transportation business. Your assessee had deposited Rs.15,50,000/- in bank account No. 394868970 with Central Bank of India during the demonetization period.*
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> *In this regard it submitted that:*

Amount	*Narration*
Rs.9,50,000/-	*Rs. 1,00,000/- cash withdrawn on 06-10-2016 from Axis bank A/c 915010028116820 and Rs. 8,50,000/- cash withdrawn on 10-10-2016 from Axis bank A/c 915010028116820*
Rs.6,00,000/-	*Out of cash received for transportation charges. Total Cash receipt for transportation charges during the year is for Rs. 19,23,753/-*
Rs.15,50,000/-	*Total Cash deposited during demonetization period.*

> *It is clear from the above that cash deposited in bank account as referred in notice represents cash withdrawn from the Axis Bank account and cash on hand accumulated through transportation charges received in cash. It may be seen from the return of income filed for assessment year 2016-17 that there was cash balance at the beginning of the year for Rs.1,21,350/-. Thus there was sufficient cash available with the assessee to deposit the same into his bank account."*

5. However, the Assessing Officer rejected the above contention of the assessee and held that based on the above facts and as per the information received and after considering the initial submissions made by the assessee, the amount of Rs.

15,50,000/-, was treated as Unexplained Money u/s 69A of the Income Tax Act, 1961 and brought to tax in the hands of the assessee.

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. Therefore, assessee is in appeal before this Tribunal.

7. Shri Mehul Ranpura, Ld. Counsel for the assessee, submitted that assessee has filed the return of income under section 44AD of the Act and declared 8% profit on the turnover. Whatever amount deposited in the bank account is the turnover of the assessee and on such turnover, the assessee had already computed net income at the rate of 8% and paid the taxes thereon. Therefore, such cash deposit in the bank account should not be taxed again in the hands of the assessee. Hence, entire addition made by the assessing officer may be deleted.

8. On the other hand, the Ld. DR for the Revenue has primarily reiterated the stand taken by the Assessing Officer, which we have already noted in our earlier para and is not being repeated for the sake of brevity.

9. We have heard, both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the ld CIT(A) and other materials brought on record. We note that assessee is an individual and deriving income from truck plying business. The assessee filed return of income, declaring income at Rs.2,94,770/-. As the assessee is engaged in the transport business and earns income from goods carriage services, therefore, return of income was filed by the assessee, declaring income under presumptive income scheme, as provided under section 44AD of the Act. During the course of assessment proceeding, it was explained that assessee had deposited cash in his bank account

from transportation receipt and cash withdrawal from bank accounts. Most of the cash deposited in bank account represents, assessee's transportation receipts, received in cash. This was well explained to the assessing officer vide assessee's reply filed on 10-02-2023, before assessing officer.The assessee furnished copy of Form No. 28AS, evidencing the fact that he is engaged in the transportation business. The copy of Certificate of Registration for vehicle no. GJ 12AU 5533, had furnished as proof of assessee's ownership to the Heavy goods Vehicle. It was further submitted by ld.Counsel that similar additions were made in assessment year 2010-11 and assessment year 2011-12, however, in appeal before CIT(A)- NFAC, the additions made have been deleted and appeals were allowed in favor of assessee. The copy of appeal order passed for above year has furnished by the assessee, before the Bench.

10. We have considered the submissions of both the parties and noted that assessee under consideration has filed return of income under Section 44AD of the Act and declared the income @8%, of turnover, therefore, as per ld. Counsel for the assessee further addition should not be made in the hands of the assessee. The Ld. counsel for the assessee submitted that cash was deposited by the assessee out of his business activities and there is a withdrawal of the cash regularly from the bank account for the business purpose and assessee has shown the turnover in respect of the amount deposited in the bank account, therefore, the amount deposited in the bank account represents the turnover of the assessee and such turnover has been declared by the assessee under Section 44AD of the Act and paid the taxes thereon, therefore it should not be taxable again in the hands of the assessee. We agree with the arguments advanced by the learned Counsel for the assessee to the effect that Rs.6,00,000/-, has been shown, as part of turnover under section 44AD of the Act, hence it should not be taxed again.

11. However, we note that in case of cash withdrawal from the bank by the assessee and re-deposited the same during the demonetisation period, the assessee has not submitted sufficient evidences. Therefore, to plug the leakage of the revenue, we are of the view that 8% addition should be made in the hands of the assessee on Rs. 9,50,000/-,which comes to Rs.76,000/-. Therefore, we direct the assessing officer to make the addition in the hands of the assessee to the tune of Rs.76,000/-.

12. Before parting, we make it clear that assessee had deposited the money in the bank account, during demonetisation period, out of his business activities, therefore, it should not be taxable under section 115BBE of the Act, therefore, we direct the assessing officer to tax of Rs.76,000/-, by applying the normal rate of income tax.

13. In the result, appeal filed by the assessee, is partly allowed.

Order is pronounced in the open court on 21/04/2026.

Sd/-	**Sd/-**
[Dr. Dinesh Mohan Sinha]	**[Dr. Arjun Lal Saini]**
न्यायिक सदस्य/ Judicial Member	**लेखा सदस्य/Accountant Member**

//True Copy//

राजकोट/Rajkot
दिनांक/ Date: 21/04/2026
Copy of the order forwarded to :

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

By order

Assistant Registrar/Sr. PS/P.S.
ITAT, Rajkot