

**THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH, AHMEDABAD**

Before Ms. Suchitra Kamble, Judicial Member

**ITA No. 1557/Ahd/2025
Assessment Year 2017-18**

Bhurabhai Bhagvanbhai Joshi, New Krushnaparu, At, Post & Taluka Unjha, Dist: Mehsana PAN: AINPJ6819R (Appellant)	Vs	The Income Tax Officer, Ward-1, Patan (Respondent)
--	----	--

Assessee by: Shri Vipul Gohil, C.A.

Revenue by: Shri Umesh Kumar Agrawal, Sr. D.R.

Date of hearing : 29-01-2026
Date of pronouncement : 15-04-2026

आदेश/ORDER

This is an appeal filed against the order dated 05-01-2024 passed by National Faceless Appeal Centre (NFAC), Delhi for assessment year 2017-18.

2. The grounds of appeal are as under:-

"1. The Ld. CIT(A) has erred in law and on facts in confirming the ex parte assessment order passed by the Assessing Officer under section 144 of the Income Tax Act, despite the Appellant's compliance during assessment proceedings and furnishing of all necessary documentary evidence in support of the business transactions.

2. The Ld. CIT(A) has erred in confirming the addition of ₹11,50,000/- under section 69A, treating the same as unexplained cash deposit, without properly appreciating the fact that the said cash deposits were out of business receipts received

through banking channels and were duly recorded in the Appellant's regular books of account.

3. The Ld. CIT(A) has erred in law and on facts in confirming the action of the Assessing Officer in estimating commission income @ 2% on total bank credits of ₹4,65,27,110/-, resulting in an addition of ₹9,30,542/-, without rejecting the books of account under section 145(3) and without pointing out any specific defects or inconsistencies in the accounts maintained by the Appellant.”

3. The assessee has not filed regular return of income. The proceedings u/s. 142(1) of the Act was initiated and accordingly notice u/s. 142(1) of the Act was issued electronically on 08-03-2018 requiring the assessee to file return of income for assessment year 2017-18. The Assessing Officer observed that the assessee has deposited cash during the demonetization period in his bank account amounting to Rs. 11,50,000/-. The assessee was issued notice u/s. 142(1) of the Act to file the return of income for assessment year 2017-18, but the assessee did not file the same. The statutory notices were issued from time to time and the assessee submitted copy of ITR not filed on ITBA, copy of bank statement, profit and loss account, balance sheet etc on 16-09-2019. After verification of the said reply, the Assessing Officer observed that on the total turnover of Rs. 4,76,77,110/-. The assessee has declared income of Rs. 2,81,120/-.The Assessing Officer made addition of Rs.11,50,000/- as unexplained money u/s. 69A of the Act. The Assessing Officer also made addition of Rs. 9,30,542/- in respect of estimated commission in the hands of the assessee @ 2% of total credits in the bank account.

4. The assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. As regards to ground no. 1, the ld. A.R. submitted that it is an ex-parte assessment order passed u/s. 144 of the Act, despite the assessee's compliance during the assessment proceedings and furnishing of all necessary documentary evidences in support of the business transactions. The Assessing Officer has not pointed out any defects or discrepancies in the books of accounts or other evidences submitted. As regards ground no. 2, the ld. A.R. submitted that the assessee has given complete supporting documentary evidences such as trading account, profit and loss account, balance sheet for financial year 2014-15, 2015-16 and 2016-17 along with statement. The ld. A.R. submitted that the assessee has also given license issued by APMC market, Unjha on 25-03-2016 and shops and establishment registration certificate. Thus, the ld. A.R. submitted that the assessee has shown genuineness of the assessee's business activity and satisfactorily explained the nature and source of bank transactions, thereby fully discharging the primary onus cast upon the assessee. As regards ground no, 3, the ld. A.R. submitted that the addition itself is incorrect amount. From the verification of the bank statement clearly shows that the total cash and credit deposits amount was Rs. 47,67,710/-. The ld. A.R. further submitted that the Assessing Officer has taken an incorrect and non-existent figure and made addition of Rs. 9,30,542/-. Thus, the Assessing Officer and the CIT(A) was wrong in framing the commission income at Rs. 2% of alleged total bank credits of Rs. 4,76,77,110/- resulting in addition of Rs. 9,30,542/- without rejecting the books of

account u/s. 143(3) and without pointing out any specific defects or inconsistencies in the books of accounts maintained by the assessee.

6. The ld. D.R. relied upon the assessment order and the order of the CIT(A).

7. I have heard both the parties and perused all the relevant material available on record. There is a delay of 494 days in filing the present appeal for which the assessee has filed the delay condonation application. The reasons states therein appear to be genuine, hence the delay is condoned. It is pertinent to note that the assessee has filed the reply and it was categorically mentioned in para 5 of the assessment order. But the assessment has been passed after taking into account the reply of the assessee, therefore simply mentioning the section 144 while passing assessment order will not unjustify the assessment order itself. Thus, ground no. 1 is dismissed. As regards to ground no. 2, from the perusal of the evidences submitted by the assessee during the assessment proceedings as well as before the CIT(A), the assessee has given the complete set of documentary evidences related to credit account, profit and loss account, balance sheet, bank statement, licence issued by APMC, Unjha and shops and establishment registration certificate which categorically reveals the assessee's trading account and the daily cash deposits and withdrawals for the earlier year and the subsequently year of the demonetization period and also given the details of cash deposits and cash withdrawals during the demonetization period. But the Assessing Officer as well as the CIT(A) has totally overlooked the same and therefore made the said addition unjustified. Ground

no. 2 is allowed. As relates to ground no. 3, once the assessee's cash and credit deposits has already been reflected in bank statement, the question of estimating commission income does not arise as the assessee has given clear picture of his trading account and the profit made by the assessee. Therefore, ground no. 3 is allowed.

8. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open court on 15-04-2026

Sd/-
(Suchitra Kamble)
Judicial Member

Ahmedabad : Dated 15/04/2026

a.k.

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद