

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

**Before Ms. Suchitra Kamble, Judicial Member**

**ITA No. 1745/Ahd/2025  
Assessment Year 2020-21**

Viniyog Fincap, C/o Ketan H. Shah, Advocate 512, Times Square-I, Opp. Ram Baug Bungalow, Thaltej Shilaj Road, Thaltej, Ahmedabad-380059 PAN: AAIFV7329M (Appellant)	Vs	The Income Tax Officer, Ward-1, Mehsana (Respondent)
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**Assessee by: Shri Ketan H. Shah, A.R.**

**Revenue by: Shri Rameshwar P. Meena, Sr. D.R.**

Date of hearing : 02-02-2026

Date of pronouncement : 15-04-2026

**आदेश/ORDER**

This is an appeal filed against the order dated 06-08-2025 passed by National Faceless Appeal Centre (NFAC), Delhi for assessment year 2020-21.

2. The grounds of appeal are as under:-

"1. In assuming jurisdiction U/s 148 of the Income Tax Act by issuing notice for the AY 2020-21, it is said that the whole proceedings is bad in law and void ab initio.

2. In assuming jurisdiction U/s 148 of the Income Tax Act by issuing notice for the AY 2020-21 dated 23-03-2024 by JAO, it is submitted that the issuance of notice u/s 148 by JAO is illegal in light of provisions of section 151A of the Act, thereby making the entire proceedings and resultant impugned orders void ab initio.

3. *In passing the order dated 17-03-2025 and the CIT(A) erred in confirming the same vide order dated 06-08-2025 in light of the fact that the so-called escaped income is already reflected in the books of account of the assessee and it be so, there is no question of escapement of income. It may be held as such and the orders be quashed and set aside.*

4. *In not appreciating the fact that the amount of Rs. 19,42,456/- which is purported to be escaped income is already included in the gross turnover of Rs. 64,30,020/- and tax on the same has been paid as per section 44AD, hence, the impugned addition is nothing but duplication of income of the assessee. It be held as such and appeal be allowed.*

5. *In adding and confirming the addition of Rs. 19,42,456/- vide impugned order dated 06-08-2025, without first rejecting the books of accounts of the assessee as per section 145, it is submitted that it being contrary to law, the impugned additions be quashed and set aside.*

6. *In making addition vide order dated 17-03-2025 and CIT(A) erred in confirming the same vide order dated 06-08-2025, on the basis of invalid approval u/s 151, it is submitted that order passed and confirmed on the basis of invalid approval is void ab initio. The same may be held and orders quashed.*

7. *In not appreciating voluminous submissions made before the AO and CIT(A) whereby entire Trading A/c., P/L. A/c. reflecting the so-called amount of escapement of Rs. 19,42,456/-, it is said that the AO and the CIT(A) ought to have accepted the same. It be held as such and order be quashed.”*

3. The assessee, M/s Viniyog Fincap (PAN: AAIFV7329M), engaged in food grain trading and allegedly in Sharafi (money lending) business, filed its return for AY 2020-21 under section 44AD, declaring total receipts of 64,30,020/-, which included 44,87,564/- from sales and 19,42,456/- as interest income. Based on information received under the e-Verification Scheme, 2021 through the Insight Portal under section 135A, the Assessing Officer observed that the assessee had received 19,42,456/- as interest income from Malti Tarunkumar Shah (as reflected in Form 26Q under section 194A), which was not properly disclosed as per departmental records. Consequently, a notice under section 148 was issued on 23.03.2024 by the JAO, Ward-1 Mehsana, with approval under section 151 dated 22.03.2024. The assessee failed to respond with a return under section 148 within the stipulated time. Subsequent notices under section 142(1) dated 30.07.2024, 08.10.2024, and

13.01.2025 were issued and partially complied with. The AO observed that the assessee was licensed for share and stock broking and not for money lending, and therefore, interest income could not form part of eligible business receipts under section 44AD. A final show cause notice was issued on 24.02.2025, and the assessment was completed under section 147 r.w.s. 144/144B on 17.03.2025, making an addition of 19,42,456/- on account of misclassification of interest income.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The ld. A.R. submitted that ground no. 1, 2 and 6 are not pressed, hence ground nos. 1, 2 and 6 are dismissed.

6. As regards ground nos. 3, 4 and 5 of the assessee's appeal, the ld. A.R. submitted that the Assessing Officer was not allowed in not accepting the assessee's business as Sarafi. The assessee has given all the details and is in the business of foodgrains and Sarafi business. The Assessing Officer is accepting the assessee's return u/s. 44AD of the Act, therefore, the Assessing Officer's contention cannot be accepted in respect of the purchases. The addition of Rs. 4,49,800/- and the misclassification of interest income amounting to Rs. 19,42,456/- is not justifiable.

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

8. I have heard both the parties and perused all the relevant material available on record. The contention of the ld. A.R. that the amount of Rs. 19,42,436/- is escaped assessment since this amount does not match with the ITR filed by the assessee and therefore, 148 notice has been issued. In this regard, it is stated that the assessee is engaged in foodgrain business as well as Sharafi interest business and return has been filed u/s 44AD. It is not correct to say that no details were filed by the assessee. Kindly see AO's order page 3 para 4.2, sub-para 2 wherein, copy of P & L Account of Sharafi business was also attached and therefore, it is stated that the amount of Rs. 64,30,020/- includes the amount of Rs. 19,42,456/- and therefore, there is no such escapement of income. The entry passed by Maxim Exports as per AO's order page 5 is not binding to the assessee because the assessee has included amount of Rs. 19,42,436/- in total turnover for the purpose of Section 44AD. For Sharafi business, there is no such license needed and therefore, entries in the books of account are only conclusive for the purpose of Section 44AD. Copies of Trading and P & L Account for the figure of Rs. 44,87,564/- as well as for Rs. 19,42,456/- making total of Rs. 64,30,020/-. Our books of accounts have not been rejected by applying Section 145 ad therefore, the claim u/s 44AD cannot be rejected. Attention is drawn to our submission before the AO on 10-10-2024 as per receipt no. 596147741101024 wherein, the decision of Hexaware, Bombay High Court was attached. We enclosed herewith computation of income from which it is found that the assessee has calculated the 44AD after inclusion of the amount of Rs. 19,42,456/- and also Rs. 44,87,564/- making total of Rs. 64,30,020/-. The claim of the assessee appears to be genuine and the treatment given by the Assessing Officer is not justifiable. Therefore, ground nos. 3, 4 and 5 are allowed.

9. 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