

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, AHMEDABAD**

**BEFORE DR. BRR KUMAR, VICE PRESIDENT &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.235/Ahd/2026
(Assessment Year: 2016-17)

Assistant Commissioner of Income Tax, International Taxation, Vadodara	Vs.	Biharibhai Gokalbhai Patel, 505, Gajanand Apartment, Nr. UCO Bank, Karamsad, Gujarat-388325
[PAN No.APOPP8402L]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Sanjay R Shah, CA
Respondent by:	Shri Rameshwar P Meena, Sr. DR

Date of Hearing	06.05.2026
Date of Pronouncement	26.05.2026

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Revenue against the order passed by the Ld. Commissioner of Income Tax (Appeals)-13, (in short “Ld. CIT(A)”), Ahmedabad vide order dated 28.11.2025 passed for A.Y. 2016-17.

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

“1. On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs. 2,04,97,450/- without appreciating the fact that Assessee has failed to explain the source of investment made in immovable properties total amounting to Rs. 83,00,900/- investment made amounting to Rs. 80,00,000/- and cash deposited amounting to Rs. 41,96,550/- in Bank Accounts?”

3. The brief facts of the case are that the assessee, an individual and non-resident, filed his return of income for A.Y. 2016-17 on 24.01.2017 declaring total income of Rs.14,09,610/-. The return was initially processed under section 143(1) of the Act. Subsequently, the case was selected for limited

scrutiny under CASS and during the course of assessment proceedings, the Assessing Officer noticed that the assessee had purchased two immovable properties registered on 26.05.2015, one property situated at Final Plot No.324, T.P. Scheme No.6, Anand for consideration of Rs.32,12,400/- involving stamp duty of Rs.1,58,000/- and another property situated at Valasan, District Anand for consideration of Rs.47,00,000/- involving stamp duty of Rs.2,30,500/-. The Assessing Officer further observed that the assessee had deposited Rs.80,00,000/- in SBI Bank Account No.3494996182 and had also made cash deposits aggregating to Rs.41,96,550/- in ICICI Bank account.

4. During the course of assessment proceedings, according to the Assessing Officer, the assessee failed to comply with the notices issued and did not furnish any explanation or documentary evidence regarding the source of investment in the immovable properties, source of deposits in SBI account and source of cash deposits in ICICI Bank account. In absence of any explanation and supporting evidences, the Assessing Officer **treated the entire amount aggregating to Rs.2,04,97,450/- as unexplained investment under section 69 of the Act. The additions comprised Rs.32,12,400/- towards purchase of immovable property at Anand, Rs.1,58,000/- towards stamp duty thereon, Rs.47,00,000/- towards purchase of property situated at Valasan, Rs.2,30,500/- towards stamp duty thereon, Rs.80,00,000/- deposited in SBI account and Rs.41,96,550/- being cash deposits in ICICI Bank account.** Accordingly, the assessment was completed under section 143(3) determining total income at Rs.2,04,97,450/- as against returned income of Rs.14,09,610/-.

5. Aggrieved by the assessment order, the assessee preferred appeal before the Ld. CIT(A). During the course of appellate proceedings, the assessee raised detailed factual as well as legal contentions and also furnished extensive additional evidences in support of the explanations regarding the impugned investments and deposits. The proceedings before us CIT(Appeals) assumed significance because the earlier order passed by the CIT(A) in assessee's own case had already been set aside by the Hon'ble ITAT Ahmedabad Bench vide order dated 07.03.2025 in ITA No.1849/Ahd/2024. The Tribunal had specifically held that the earlier CIT(Appeals) erred in rejecting the additional evidences despite having called for a remand report from the Assessing Officer and was duty-bound to adjudicate the matter afresh after considering the remand report and rejoinder of the assessee. The Tribunal had also observed that even the remand findings themselves indicated that certain investments, **particularly the payments relating to purchase of properties, were made in earlier years and the same had not been properly appreciated by the CIT(Appeals) in the first round of proceedings.** In view of the directions of the Tribunal, the appeal was restored to the file of the Ld. CIT(A) for fresh adjudication on merits.

6. During the second round of proceedings before CIT(Appeals), the assessee filed additional grounds contending that substantial additions made towards purchase of immovable properties were factually and legally unsustainable because the payments towards such properties **had actually been made in Financial Year 2013-14 relevant to A.Y. 2014-15 and not during the year under consideration i.e. A.Y. 2016-17.** The assessee submitted that out of the total consideration of Rs.32,12,400/- paid for the

Anand property, an amount of Rs.31,87,500/- had already been paid on 27.11.2013 through banking channel. Similarly, the consideration of Rs.47,00,000/- for the Valasan property had been paid on 15.04.2013 and 16.04.2013 through cheques. It was submitted that section 69 of the Act could be invoked only in the year in which the investment was actually made and not in the year in which the sale deed came to be registered. The assessee therefore contended that addition of Rs.78,87,500/- in A.Y. 2016-17 was fundamentally erroneous.

7. The CIT(Appeals) forwarded the additional evidences and grounds raised by the assessee to the Assessing Officer for remand report. In the remand proceedings, the Assessing Officer objected to admission of additional evidences under Rule 46A by contending that sufficient opportunities had already been granted during assessment proceedings and the assessee failed to establish any reasonable cause for non-compliance. However, on merits, the Assessing Officer examined the purchase deeds as well as bank statements furnished by the assessee and observed **that the dates and cheque numbers mentioned in the purchase deeds matched with the entries appearing in SBI bank account statements for Financial Year 2013-14. The remand report acknowledged that payment of Rs.32,12,400/- for the Anand property was made on 27.11.2013 and payment of Rs.47,00,000/- for the Valasan property was made on 15.04.2013 and 16.04.2013.** Thus, in the remand proceedings, the Assessing Officer effectively accepted that the payments towards the properties had been made in earlier years and not during the year under consideration.

8. At the same time, the Assessing Officer continued to dispute the explanation relating to the deposits of Rs.80,00,000/- in SBI account and cash deposits of Rs.41,96,550/- in ICICI Bank account. Regarding SBI deposits, the assessee had explained that amounts aggregating to Rs.70,00,000/- were received from one Shri Mukeshbhai G. Vaswani and Rs.10,00,000/- were from sale proceeds of ancestral land. However, **the Assessing Officer, after analysing the bank statements of Shri Mukeshbhai Vaswani, observed that immediately before issuing cheques to the assessee, substantial cash deposits had been made in the accounts of Shri Vaswani and therefore according to the Assessing Officer,** the transactions denoted round tripping of unaccounted cash. The Assessing Officer further held that the assessee failed to substantiate the source of Rs.10,00,000/- received from sale of ancestral land. Accordingly, the remand report maintained that the source of Rs.80,00,000/- remained unexplained.

9. Similarly, with regard to cash deposits in ICICI Bank account, the assessee explained that the amounts were the cash receipts from M/s M.V. Jewellers against sale of jewellery and also agricultural income received from agricultural lands jointly held with his younger brother under “santhbhag” arrangement. The assessee furnished confirmations, promissory notes, PAN details and detailed cash flow statements. However, the Assessing Officer doubted the genuineness of the explanation on the ground that it was unusual for a jeweller to make cash payments of such magnitude and further observed that the assessee had not furnished wealth tax returns or original vouchers to establish ownership of jewellery. The Assessing Officer therefore maintained in the remand report that the cash deposits remained unexplained.

10. In response to the remand report, the assessee filed a rejoinder explaining that the Assessing Officer himself had accepted in the remand report that the property payments were made in Financial Year 2013-14 and therefore no addition could survive in A.Y. 2016-17. The assessee also clarified that the Assessing Officer had mixed up the explanations relating to property payments and SBI deposits. The assessee submitted that the deposits of Rs.80,00,000/- in SBI account were not sourced from Shri Mukeshbhai Vaswani but from three independent parties namely Shri Bipinchandra Shivabhai Patel, Shri Navinbhai Shivabhai Patel and Shri Nishithkumar Chandrakant Patel from whom loans had been received through RTGS. Confirmations, PAN details and bank statements of all the lenders were furnished and the assessee submitted that the Assessing Officer had not made any adverse comments on these documentary evidences in the remand report.

11. The assessee further reiterated that the cash deposits in ICICI Bank account were fully explained by jewellery sale transactions and agricultural income. The assessee submitted that the Assessing Officer had not doubted the actual transaction with M.V. Jewellers but had merely raised suspicion regarding the manner of payment. The assessee also pointed out that Wealth Tax Act had already been abolished and therefore the objection regarding non-filing of wealth tax return was misconceived. The assessee submitted that once confirmations, promissory notes, PAN details and cash flow statements were furnished, the addition could not be sustained merely on suspicion.

12. After considering the assessment order, remand report, rejoinder of the assessee and documentary evidences, the Ld. CIT(A) partly allowed the appeal of the assessee. The CIT(Appeals) first dealt with the additional

ground relating to additions towards purchase of immovable properties. The Ld. CIT(A) held that the assessee had demonstrated through bank statements, RTGS entries and purchase deeds that **payments aggregating to Rs.78,87,500/- towards the two properties were actually made during Financial Year 2013-14 relevant to A.Y. 2014-15 and not during the year under consideration.** The CIT(Appeals) also noted that even the Assessing Officer in remand proceedings had admitted that the payments were made in earlier years. Accordingly, the Ld. CIT(A) held that once the investments were not made during A.Y. 2016-17, the provisions of section 69 of the Act could not be invoked in the year under appeal merely because the properties were registered during the relevant previous year. On this reasoning, the addition of Rs.78,87,500/- was deleted.

13. The Ld. CIT(A) further held that the assessee had also satisfactorily explained the money trail relating to the property transactions through confirmations from Shri Mukeshbhai Vaswani, bank statements and RTGS records. The CIT(Appeals) observed that the Assessing Officer had not disputed the genuineness of the banking transactions or the identity of the lender and therefore no addition could survive.

14. Thereafter, while adjudicating the additions relating to SBI deposits of Rs.80,00,000/- and cash deposits in ICICI Bank account of Rs.41,96,550/-, the Ld. CIT(A) examined the confirmations, PAN details, bank statements and other evidences furnished by the assessee. With regard to SBI deposits, the CIT(Appeals) recorded that the assessee had furnished confirmations and identity details of three lenders namely Shri Bipinchandra Patel, Shri Navinbhai Patel and Shri Nishithkumar Patel along with their bank

statements showing RTGS transfers to the assessee. The Ld. CIT(A) observed that the Assessing Officer had not brought any material on record to establish that the lenders did not have creditworthiness or that the instant transactions were not genuine. The CIT(Appeals) therefore held that the source of Rs.80,00,000/- stood satisfactorily explained.

15. Similarly, in relation to cash deposits in ICICI Bank account, the Ld. CIT(A) noted that the assessee had furnished confirmation from M.V. Jewellers, PAN details of the proprietor, promissory note and detailed cash flow statement duly reconciling with the deposits in the bank account. The CIT(Appeals) further took note of the additional evidences regarding agricultural land holdings and agricultural receipts from cultivation under “santhbhag” arrangement. The CIT(Appeals) held that the assessee had demonstrated receipt of Rs.11,50,000/- from agricultural sharing arrangement and such receipts were also corroborated by cash flow statement and land records. The CIT(Appeals) observed that the Assessing Officer had merely raised suspicion regarding the mode of receipt of money from jewellery transaction but had not conducted any independent inquiry under section 131 of the Act or otherwise disproved the documentary evidences furnished by the assessee. The Ld. CIT(A) therefore held that suspicion alone could not justify the addition when the assessee had furnished corroborative evidences explaining the source of deposits. Accordingly, the entire addition of Rs.2,04,97,450/- made under section 69 was deleted and the additional grounds raised by the assessee were allowed.

16. The Department is in appeal before us against the order passed by CIT(Appeals) partly against the aforesaid relief granted to the assessee.

17. We have heard the rival contentions and perused the material on record. We have also carefully gone through the assessment order, the remand report furnished by the Assessing Officer during appellate proceedings, the rejoinder filed by the assessee, the impugned order passed by the Ld. CIT(A) and the documentary evidences placed before us. Upon consideration of the entire factual matrix, we find no infirmity in the well-reasoned order passed by the Ld. CIT(A) deleting the additions made under section 69 of the Act.

18. At the outset, it is pertinent to note that the original additions aggregating to Rs.2,04,97,450/- were made by the Assessing Officer primarily because the assessee did not participate during the assessment proceedings and therefore no supporting evidences regarding the source of investments and deposits were available before the Assessing Officer at that stage. However, before CIT(Appeals), the assessee furnished documentary evidences explaining various components of the addition and the same were also subjected to verification by the Assessing Officer during remand proceedings. Notably, even the earlier order passed by the CIT(Appeals) had already been set aside by the Coordinate Bench of the Tribunal in assessee's own case with a specific direction that the evidences furnished by the assessee along with the remand report deserved proper adjudication on merits.

19. We first deal with the additions relating to investment in immovable properties aggregating to Rs.78,87,500/-. The record clearly reveals that the Assessing Officer made additions in A.Y. 2016-17 primarily because the sale deeds relating to the two properties were registered during the relevant assessment year. However, during appellate proceedings before CIT(Appeals), the assessee furnished purchase deeds, bank statements and

RTGS details to demonstrate that the actual payments towards acquisition of the properties were made much earlier during Financial Year 2013-14 relevant to A.Y. 2014-15. The assessee showed that payment of Rs.31,87,500/- relating to Anand property was made on 27.11.2013 through banking channel and similarly payments aggregating to Rs.47,00,000/- relating to Valasan property were made on 15.04.2013 and 16.04.2013 through cheques.

20. What is significant is that these factual aspects were verified by the Assessing Officer in the remand report. The Assessing Officer observed that the dates and cheque numbers mentioned in the purchase deeds matched with the entries appearing in the bank statements for Financial Year 2013-14 and therefore admitted that the payments towards the properties had indeed been made in earlier years. Once this factual position is accepted by the Revenue itself, the very basis of addition under section 69 of the Act in the year under consideration disappears.

21. It is settled proposition of law that for invoking section 69 of the Act, the relevant year is the year in which the investment is actually made and not the year in which the asset is registered or documented. The provisions of section 69 of the Act contemplate taxation of unexplained investment in the year of actual investment. Therefore, where the evidence on record establishes that the payments were made in earlier financial years, we are of the considered view that no addition can be sustained in the subsequent year merely because the registration of the property took place later.

22. In the case of **Nanakchand Agrawal, L/h of Kalawati Agrawal v. Income Tax Officer in Tax Case No.8 of 2024 decided on 29.08.2025**, the Hon'ble Chhattisgarh High Court dealt with the issue regarding the correct year of taxability under section 69A of the Act. In that case, the assessee had deposited cash during the demonetization period and explained that the said cash represented opening cash balance carried forward from the immediately preceding assessment year. The Assessing Officer, however, rejected the explanation and treated the cash deposits as unexplained money under section 69A in the year of deposit.

23. The Hon'ble High Court held that the very scheme of section 69A makes it clear that unexplained money can be brought to tax only in the financial year in which the assessee is found to be owner of such money. The Court observed that once the assessee had specifically explained that the cash deposited during the relevant year originated from opening cash balance of earlier year, then the issue regarding nature and source of such cash could have been examined only in the earlier assessment year and not in the subsequent year merely because the money was deposited in bank during that later year.

24. The Hon'ble High Court observed as under:-

“the explanation of nature and source of such money and invocation of deeming fiction engrafted under Section 69A could have been sought/examined by the Assessing Officer in the assessment year 2016-17 and could not have been done in the assessment year 2017-18 going by the express language contained in Section 69A and not otherwise.”

25. The Hon'ble Court further emphasized that section 69A is strictly year-specific and the deeming fiction under the provision applies only to the

financial year in which ownership of unexplained money is established. In this regard, the Court observed:-

“the provisions of Section 69A of the IT Act contemplate that the ‘money’ (cash deposit in the present case) could be deemed to be in the nature of income only in the financial year in respect of which the assessee is found to be the owner”

26. Thus, the Hon’ble High Court clearly laid down that where the assessee demonstrates that the impugned money or investment pertains to earlier years, no addition under section 69A can be made in a later year merely because the amount surfaces, gets deposited or is reflected during such later year. The correct year of taxability under section 69A is the year in which the unexplained money or investment actually came into existence or the assessee became owner thereof, and not the year in which the same is subsequently utilized, deposited or registered.

27. In the present case, the assessee furnished complete documentary evidence in the form of purchase deeds, bank statements and RTGS entries, and even the remand report of the Assessing Officer supports the assessee’s claim that the payments were made in Financial Year 2013-14. In such circumstances, we are of the considered view that the Ld. CIT(A) was justified in holding that addition of Rs.78,87,500/- under section 69 in A.Y. 2016-17 was legally unsustainable.

28. Coming to the addition relating to deposits of Rs.80,00,000/- in SBI account, we find that the assessee furnished confirmations, PAN details and bank statements of three parties namely Shri Bipinchandra Shivabhai Patel, Shri Navinbhai Shivabhai Patel and Shri Nishithkumar Chandrakant Patel from whom amounts were received through RTGS. The bank statements

furnished by the assessee clearly reflected the receipt of funds from these parties and corresponding transfer into the SBI account of the assessee. The Ld. CIT(A) has recorded a factual finding that the Assessing Officer did not bring any material on record to establish that these parties were not creditworthy.

29. We also find merit in the contention of the assessee that the Assessing Officer mixed up the explanation relating to property investments with the explanation relating to SBI deposits. The adverse observations in the remand report regarding Shri Mukeshbhai Vaswani were primarily in connection with the property transactions and not the SBI deposits. However, even otherwise, no independent inquiry was carried out by the Assessing Officer to dispute the evidences furnished by the assessee regarding the three lenders. Once confirmations, PAN details, banking transactions and identity particulars were furnished, the onus shifted upon the Revenue to bring contrary material on record. In absence thereof, the Ld. CIT(A) was justified in accepting the explanation furnished by the assessee.

30. Similarly, with respect to the cash deposits of Rs.41,96,550/- in ICICI Bank account, we find that the assessee furnished confirmation from M/s M.V. Jewellers, PAN details of the proprietor, promissory note and detailed cash flow statement reconciling the deposits. The assessee also furnished evidences regarding agricultural income and agricultural land holdings under “santhbhag” arrangement. The Ld. CIT(A) has recorded detailed factual findings that the assessee had demonstrated receipt of agricultural income aggregating to Rs.11,50,000/- and the same stood corroborated by land records and cash flow statements.

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31. The objection of the Assessing Officer that the jewellery transaction appeared unusual because payment was made in cash cannot by itself constitute evidence for sustaining addition under section 69 of the Act. Suspicion, however strong, cannot take the place of evidence. The Assessing Officer neither conducted any inquiry from M.V. Jewellers nor issued summons under section 131 nor brought any adverse material on record to disprove the documentary evidences furnished by the assessee. Once the assessee had produced confirmations, promissory notes, identity details and reconciliation statements, the explanation could not have been rejected merely on presumptions and surmises.

32. In view of the aforesaid facts and circumstances, we find no infirmity in the order of Ld. CIT(A) so as to call for any interference.

33. Accordingly, the appeal of the Department is dismissed.

This Order pronounced in Open Court on

26/05/2026

Sd/-
(DR. BRR KUMAR)
VICE PRESIDENT

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

Ahmedabad; Dated 26/05/2026

TANMAY, Sr. PS

TRUE COPY

आदेश की प्रतिलिपि अग्रेषित/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.

आदेशानुसार/ BY ORDER,

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