

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

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
Ms SUCHITRA KAMBLE, JUDICIAL MEMBER**

I.T.A. No.1484/Ahd/2025
(Assessment Year: 2016-17)

Bharatbhai Dahyabhai Patel, 15, Tarun Society, Near IPCL Road, Atma Jyoti Nagar, Hari Nagar, Vadodara-390007. [PAN :ADRPP9181 D]	Vs.	The Deputy Commissioner of Income Tax, Circle-1(1)(1), (Previously Circle (1)(2)(1)) Vadodara.
(Appellant)	..	(Respondent)

Appellant by :	Ms Hasti Vyas, AR
Respondent by:	Shri Sudhakar Verma, Sr.DR
Date of Hearing	08.10.2025
Date of Pronouncement	17.10.2025

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-

The captioned appeal has been filed by the assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre, Delhi, vide order dated 30.06.2025 relevant to the Assessment Year 2016-17.

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

1. *On the facts and circumstances of the case as well as law on the subject, Lt. CIT(A) has erred in confirming disallowance of expenses claimed against business income amounting to Rs.9,99,872/-*

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2. *On the facts and circumstances of the case as well as law on the subject, Ld.CIT(A) has erred in disallowing proportionate expenses amounting to Rs.9,99,872/- without considering that the same has been incurred wholly for the purpose of earning business income.*
3. *On the facts and circumstances of the case as well as law on the subject, Ld. CIT(A) has erred in disallowing proportionate expenses amounting to Rs.9,99,872/- without considering that assessee has incurred expenses only for the two partnership firms in which he is a working partner and has earned remuneration.*
4. *Appellant craves leave to add, alter or delete any grounds either before or in the course of hearing of the appeal.*

3. The brief facts of the case is that the appellant had filed its return of income and declared income at Rs. 26,76,660/- The case has been selected under CASS. The appellant is a Civil Contractor and also partner in various firms earning income from the said activities, and has been maintaining his books of account During the year under consideration he didn't have any income from his civil construction business, however he has earned income from the partnership firm by way of Interest on capital, remuneration and share of profit from the various partnership firms. The case has been selected on the reason "verify excess expenses claimed against remuneration". The Assessing Officer had verified the same and made addition of Rs 9,99,872/-.

4. Aggrieved against the Assessment Order, the assessee filed appeal before the Ld. CIT(A), who dismissed the appeal of the assessee by observing as follows:

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"...5.3 I have gone through the facts of the case and the submission filed by the appellant. It is seen that the appellant is a civil contractor, but during the year under consideration didn't have any income from his civil construction business, however he had earned income from the partnership firm by way of Interest on capital, remuneration and share of profit from the various partnership firms. He has filed his Return of Income declaring Total Income of Rs.26,76,660/- and claimed expenses to the tune of Rs. 10,83,194/- as allowable business expenses against business income

5.4 The A.O. had rejected the claim of the appellant stating that the expenses incurred during the year pertain to all the firms on account of common usage hence only proportionate deduction of the expenses is allowable to the appellant. Therefore, it is logical to conclude that the expenses claimed by the assessee have been incurred with respect to all the firms from wherein the assessee is deriving the exempt income. Hence, deduction of complete expenses incurred on account of common usages cannot be allowed against remuneration receipts from a single firm and hence rejected the claim of the appellant.

5.5 During the appellate proceedings this issue has been verified and it is noticed that the appellant had earned income in the form of remuneration from only one firm during the year under consideration however claimed expenses incurred in connection with transactions of all the firms where he is a partner. This is not tenable as per law and provisions of the Act. The appellant is eligible for claiming that expenses only which are incurred in connection with income earned from that specific firm only. Common business expenses incurred are not allowable against specific incomes. Therefore, I do not find infirmity in the action of the A.O. In view of the above facts this ground is dismissed..."

5. Aggrieved by the order of the Ld. CIT(A), the assessee is now in appeal before the Tribunal.

6. The Ld. Counsel for the assessee submitted that the assessee is the sole proprietor of M/s. Almitee Construction, engaged in civil contracting work. He is also an investor in land and buildings and a

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partner in 13 firms involved in construction and land trading. Out of these, he actively works in two firms and is a non-working partner in the remaining eleven. His main sources of income are house property, business, and interest income. During the year, he claimed business expenses of Rs.10,83,194/- related to his proprietorship and the two firms where he is a working partner. He earned Rs.4,55,348/- as remuneration and Rs.7,93,756/- as profit from these firms. It was argued that the expenses relate only to the firms where he is actively involved and not to the others. Therefore, the Assessing Officer wrongly disallowed Rs.9,00,872/- by assuming that he worked in only one firm, whereas he was a working partner in two firms and also actively managed his proprietorship business.

7. We have carefully considered the rival submissions and perused the material available on record. It is observed that the Assessing Officer made a proportionate disallowance of expenses on the erroneous assumption that the assessee was a working partner in only one firm, whereas the assessee has clearly demonstrated that he was a working partner in two firms and a sole proprietor of M/s. Almitee Construction. The expenses of Rs. 10,83,194/- were incurred wholly and exclusively for the purpose of business carried on by the assessee as a sole proprietor and as a working partner in the said firms. No material has been brought on record by the Revenue to establish that the expenditure so incurred was not related to the business activities of the assessee. The proportionate disallowance sustained by the Ld. CIT(A) is therefore not justified. Accordingly, the addition of **Rs.**

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9,99,872/- sustained by the Ld. CIT(A) is **hereby deleted**, and the **order of the Ld. CIT(A) is set aside.**

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

The order is pronounced in the open Court on 17.10.2025.

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Sd/-
(DR. B.R.R. KUMAR)
VICE-PRESIDENT

(True Copy)

Ahmedabad; Dated 17.10.2025

MV

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,

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