IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, AHMEDABAD

BEFORE DR. BRR KUMAR, VICE PRESIDENT &
SHRI TAPAS RAM MISRA, JUDICIAL MEMBER

I.T.A. No.2223/Ahd/2025
(Assessment Year: 2023-24)

Janki Darshanbhai Patel, 19, Royal Crescent Bungalows, Nr. Asopalav Bunglow, Thaltej, Ahmedabad-380059	Vs.	Deputy Commissioner of Income Tax, Circle-3(1)(1), Ahmedabad
[PAN No.APXPP5360C]		
(**Appellant**)	..	(**Respondent**)

Appellant by :	Shri Dhinal Shah, AR
Respondent by:	Shri Amit Pratap Singh, Sr. DR

Date of Hearing	20.08.2026
Date of Pronouncement	26.10.2026

O R D E R

PER TAPAS RAM MISRA - JUDICIAL MEMBER:

The present appeal has been filed by the Assessee against the order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (hereinafter referred to as "NFAC"), Delhi (hereinafter referred to as "CIT(A)"), dated 21.10.2025 passed under Section 250 of the Income Tax Act, 1961 (hereinafter referred to as the "Act") and relates to Assessment Year (A.Y.) 2023-24.

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

"01. The Learned Commissioner of Income-tax (Appeals) ("Ld. CIT(A)") has erred in confirming the treatment of the sales consideration received on the sale of land of Rs. 3,92,68,000 as business income on the ground that it is business within the meaning of section 2(13) of the Income-tax Act, 1961 ('the Act') or an adventure in nature of trade inasmuch as

(i) the investment made by the appellant is from her own funds and not the borrowed funds; and

(ii) the activities are neither in the nature of business under section 2(13) nor an adventure in the nature of trade.

1.2 Without prejudice to the above ground, the Ld. CIT(A) has erred in confirming the treatment of the sales consideration received on the sale of land of Rs. 3,92,68,000 as business income without allowing the cost acquisition of Rs. 3,07,07,422 inasmuch as it is net income of which is chargeable to tax and not the gross sale consideration as per section 28 of the Act.

02. The Ld. CIT(A) has erred in confirming the income distributed by the business trust of Rs. 49,64,279 is taxable and not exempt inasmuch as such income is exempt in the hands of the appellant under Section 10(23FD) r.w.s 10(23FC) of the Income-tax Act, 1961 ('Act').

03. The Ld. CIT(A) has erred in confirming the erroneous levy of interest of Rs. 32,40,000 u/s 234B of the Income-tax Act, 1961 ('Act').

04. The Ld. CIT(A) has erred in confirming the erroneous levy of interest of Rs. 1,43,391 u/s 234D of the Income-tax Act, 1961 ('Act').

05. The Ld. CIT(A) has erred in passing an order ex-parte on the ground that the appellant has not filed any reply in response to notice issued under section 250 of the Act inasmuch as the appellant has filed her reply vide submission dated 11th September 2025."

3. The brief facts of the case are that the assessee, an individual namely Janki Darshanbhai Patel, filed her return of income for Assessment Year 2023-24 on 31.07.2023 declaring total income of Rs.16,68,66,420/-. Subsequently, the case was selected for complete scrutiny under CASS mainly on account of large turnover from transactions in securities, depository accounts and mutual funds as compared to sale turnover reflected in the Profit & Loss Account and Schedule Capital Gains. During the course of assessment proceedings, the Assessing Officer observed that the assessee along with co-owner Mr. Ajaykumar Dahyabhai Shridhar had sold multiple parcels of converted non-agricultural land to various buyers and the assessee's share in such properties was 50%.

4. During assessment proceedings, the Assessing Officer examined the pattern of transactions undertaken by the assessee and came to the conclusion that the assessee was regularly engaged in purchase of agricultural lands, conversion of such lands into non-agricultural lands and

thereafter sale of the converted plots in smaller parcels to different buyers. According to the Assessing Officer, the frequency, volume and systematic manner of transactions clearly indicated that the activities were in the nature of business or adventure in the nature of trade within the meaning of section 2(13) of the Act and therefore income arising therefrom was liable to be assessed under the head "Profits and Gains from Business or Profession" and not under the head "Capital Gains". The Assessing Officer observed that the assessee did not hold the lands for long duration as an investor but immediately after purchase sought conversion into non-agricultural land and sold the same for profit. The Assessing Officer also compared the assessee's activities with those of land developers and observed that the modus operandi adopted by the assessee was identical to real estate business activities carried on by developers. The Assessing Officer further noted that the assessee had not claimed brokerage expenses which according to him suggested active personal involvement in identifying buyers and executing transactions.

5. The Assessing Officer thereafter issued a detailed show-cause notice asking the assessee to explain why the sale consideration of Rs.3,92,68,000/- arising from sale of converted land should not be treated as business income instead of capital gains. In response, the assessee contended that she was an investor who had invested in various assets. In A.Y. 2021-22 she had invested in big land parcels. Being unable to sell the big parcels, she and the co-owner had divided the land into small sizes and converted the land from agricultural to non-agricultural. All the pieces of the lands were sold during the relevant previous year to a single buyer, Anantbaug Plantations Pvt. Ltd. It was also contended by the assessee that she had executed only 4 sale deeds during the year and there was no fresh purchase of land during the year. Additionally, the assessee contended that

she had invested her own funds of acquiring the land as assets and not borrowed funds. The assessee also alternatively submitted that even if the receipts were to be assessed as business income, deduction for cost of acquisition amounting to Rs.3,07,07,422/- ought to be allowed and only net income could be subjected to tax under section 28 of the Act. However, the Assessing Officer rejected the explanation furnished by the assessee. According to the Assessing Officer, since the lands were purchased and converted into non-agricultural land in earlier years, the assessee ought to have disclosed the related expenditure and business losses in those years itself and therefore no deduction for cost of acquisition could be allowed during the year under consideration. The Assessing Officer accordingly treated the entire sale consideration of Rs.3,92,68,000/- as business income and added the same to the total income of the assessee.

6. Apart from the above addition, the Assessing Officer further noticed that the assessee had claimed exempt income of Rs.49,64,279/- received from business trusts under section 10(23FD) read with section 10(23FC) of the Act. The Assessing Officer examined the provisions of sections 10(23FD), 10(23FC), 115UA and 115BAA of the Act and came to the conclusion that the income distributed by the business trusts was taxable in the hands of the unit holder. According to the Assessing Officer, exemption under section 10(23FD) was available only in specific situations where the special purpose vehicle/business trust had exercised option under section 115BAA of the Act. Since according to the Assessing Officer the business trusts in the present case had not exercised such option, the income distributed by the business trust was liable to be taxed in the hands of the assessee. Accordingly, the amount of Rs.49,64,279/- claimed as exempt income was treated as taxable income under the head "Income from Other Sources" and added to the total income of the

assessee. The Assessing Officer also observed difference between income distributed by business trusts as reflected in Form 64B and the amount reported by the assessee and further issued show-cause notice in this regard.

7. The Assessing Officer completed the assessment by making addition of Rs.3,92,68,000/- as business income and Rs.49,64,279/- as income from other sources.

8. Aggrieved by the assessment order, the assessee preferred appeal before the Ld. CIT(A). In Ground No.1, the assessee challenged the action of the Assessing Officer in treating sale consideration of Rs.3,92,68,000/- as business income by contending that the transactions were investments and not business activities or adventure in the nature of trade. The assessee also raised an alternative ground that even if the receipts were to be assessed as business income, deduction for cost of acquisition of Rs.3,07,07,422/- ought to have been allowed and only net profit could have been brought to tax. In Ground No.2, the assessee challenged addition of Rs.49,64,279/- on account of income received from business trusts by contending that the same was exempt under section 10(23FD) read with section 10(23FC) of the Act. Grounds No.3 and 4 challenged levy of interest under sections 234B and 234D of the Act respectively.

9. During appellate proceedings, the Ld. CIT(A) while adjudicating Ground No.1 relating to treatment of land sale transactions as business income, concurred with the view that the assessee was systematically engaged in purchase of agricultural lands, conversion into non-agricultural lands and sale thereof in multiple parcels to various buyers. The Ld. CIT(A) held that the assessee's activities were in the nature of organized business activity similar to that carried on by land developers and therefore

the Assessing Officer was justified in assessing the receipts as business income. The CIT(Appeals) also relied upon the judgment of the Hon'ble Kerala High Court in the case of V.A. Jose vs. ITO reported in [2018] 252 Taxman 386 (Ker), wherein it was held that where a person purchases agricultural land, levels and develops it and thereafter sells the same at higher price, the transaction constitutes adventure in the nature of trade and profit arising therefrom is taxable as business income. The Ld. CIT(A) therefore upheld addition of Rs.3,92,68,000/- made by the Assessing Officer as business income and also confirmed denial of deduction for cost of acquisition.

10. With respect to Ground No.2 relating to taxation of income received from business trusts, the Ld. CIT(A) held that the Assessing Officer had correctly interpreted the provisions of sections 115UA, 115BAA, 10(23FC) and 10(23FD) and therefore the amount of Rs.49,64,279/- received from business trusts was rightly brought to tax under the head "Income from Other Sources". Since the assessee had failed to place any material on record to rebut the findings of the Assessing Officer, the addition was confirmed.

11. The Ld. CIT(A) therefore upheld both the additions made by the Assessing Officer. As regards Grounds No.3 and 4 challenging levy of interest under sections 234B and 234D of the Act, the Ld. CIT(A) held that levy of interest under the said provisions is consequential and mandatory in nature and therefore no separate adjudication was required. Accordingly, these grounds were dismissed.

12. Therefore, the appeal of the assessee was dismissed by the Ld. CIT(A).

13. The assessee is in appeal before us against the order passed by CIT(Appeals) dismissing the appeal of the assessee.

14. We have heard the rival submissions and perused the material available on record.

15. Ground No.1 raised by the assessee relates to action of the Assessing Officer in treating the receipts arising from sale of converted land amounting to Rs.3,92,68,000/- as "business income" instead of "capital gains".

16. The undisputed facts emerging from the record show that the assessee was regularly engaged in purchase of agricultural lands, conversion of such lands into non-agricultural lands and thereafter sale of the converted plots in smaller parcels to multiple buyers. It is also an admitted factual position that the assessee along with co-owner Mr. Ajaykumar Dahyabhai Shridhar held 50% share each in the impugned properties and systematically carried out sale transactions after conversion of land. The Assessing Officer has recorded detailed findings demonstrating that the assessee was not merely holding the land as passive investment but was actively engaged in activities akin to real estate business and land development operations.

17. The Assessing Officer has noted that immediately after purchase of agricultural lands, the assessee initiated conversion proceedings before competent authorities for converting the land into non-agricultural land and thereafter sold the same in multiple smaller parcels to different purchasers. Such activities required continuous and organized efforts including liaison with revenue authorities, conversion agencies, registration offices and identification of prospective buyers. The

Assessing Officer also observed that the assessee had undertaken **frequent and repetitive transactions of similar nature over multiple years** and therefore the transactions were clearly distinguishable from isolated realization of investment.

18. The principal controversy involved in the present ground is whether the transactions undertaken by the assessee amounted to transfer of investment giving rise to capital gains or whether the same constituted "adventure in the nature of trade" assessable as business income.

19. At this stage, it would be relevant to refer to section 2(13) of the Income-tax Act, 1961 which defines "business" as under:

> *"Business includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture."*

20. The statutory definition includes "adventure in the nature of trade" within the scope of business. The expression "adventure in the nature of trade" has consistently received wide judicial interpretation and the determination depends upon cumulative effect of facts and surrounding circumstances including intention of assessee, frequency of transactions, development activities undertaken, manner of dealing with asset and overall commercial conduct.

21. The Hon'ble Supreme Court in the landmark decision in G. Venkataswami Naidu & Co. v. CIT reported in (1959) 35 ITR 594 (SC) laid down the governing principles for determining whether a transaction constitutes adventure in the nature of trade and observed as under:

> *"In deciding the character of such transactions several factors are relevant, such as the nature of the commodity, the quantity purchased and resold, the repetition of transactions, the supplementary work on or in connection with the property purchased, the circumstances responsible for realization and the motive."*

22. The Hon'ble Supreme Court further held:

> *"If a person invests money in land intending to hold it, enjoys its income for some time and then sells it at profit, it would normally be capital accretion. But if the transaction is entered into with intention to resell at profit after development or other commercial activity, it may constitute adventure in nature of trade."*

23. Similarly, the Hon'ble Supreme Court in Raja J. Rameshwar Rao v. CIT reported in (1961) 42 ITR 179 (SC) held:

> *"Where the owner of land develops it, lays roads, converts it into plots and sells them not as mere owner but as trader, the activity amounts to business venture."*

23.1. In this case, the assessee had acquired land for construction of a market. The land acquired was much in excess of requirement and the surplus land was divided into plots and sold. In these facts, it was held that the assessee's activities constituted business and income therefrom was taxable as business income.

24. The Hon'ble Kerala High Court in V.A. Jose v. ITO reported in [2018] 252 Taxman 386 (Ker), relied upon by the Ld. CIT(A) held:

> *"Where a person purchased agricultural land, levelled and developed the same and thereafter sold the plots at higher price, the activity constituted adventure in the nature of trade and profit arising therefrom was taxable as business income."*

24.1. This observation of the Hon'ble High Court came in the context of an assessee, an NRI, who had purchased agricultural land, levelled it and sold it after two years and claimed the sale proceeds to be exempt as the land was agricultural land. The Hon'ble High Court held that in the facts, where the assessee could not have undertaken agricultural activity, his intent was to develop and sell the land. Hence, it was held, the income was rightly taxed as business income.

25. The Hon'ble Gujarat High Court in CIT v. Rewashanker A. Kothari reported in (2006) 283 ITR 338 (Guj) has also held that the intention at the time of acquisition coupled with subsequent conduct and development activities are relevant factors for determining whether transaction is investment or trading activity. The Hon'ble Jurisdictional High Court quoted with approval from an earlier decision of the same High Court in the case of Pari Mangaldas Girdhardas vs. CIT [1977] 6 CTR 647 (Guj.) wherein certain tests were formulated to determine as to whether an assessee could be said to be carrying on business. The relevant portion of the decision of the Hon'ble High Court is reproduced below:

> ***10.*** *The tests laid down by various decisions of the Apex Court indicate that, in each case, it is the total effect of all relevant factors and circumstances that determine the character of the transaction. Each case has to be determined on the total impression created on the mind of the Court by all the facts and circumstances disclosed in a particular case. One of the principal tests is whether the transaction is related to the business normally carried on by an assessee. The nature of the commodity would also be a relevant factor. It is equally well-settled that, merely because the original purchase was made with the intention to resell, if an enhanced price could be obtained, that by itself is not enough to infer that an assessee is carrying on business. However, though profit motive in entering into a transaction is not decisive, if the facts and circumstances indicate that the purchase of the asset was made solely and exclusively with an intention to resell the asset at a profit, it would be a strong factor for inferring that the transaction was in the nature of business.*
>
> ***11.*** *In the case of Pari Mangaldas Girdhardas v. CIT 1977 6 CTR 647 (Guj.), after analyzing various decisions of the Apex Court, this Court has formulated certain tests to determine as to whether an assessee can be said to be carrying on business:*
>
> *(a) The first test is whether the initial acquisition of the subject-matter of transaction was with the intention of dealing in the item, or with a view to finding an investment. If the transaction, since the inception, appears to be impressed with the character of a commercial transaction entered into with a view to earn profit, it would furnish a valuable guideline.*
>
> *(b) The second test that is often applied is as to why and how and for what purpose the sale was effected subsequently.*

(c) The third test, which is frequently applied, is as to how the assessee dealt with the subject-matter of transaction during the time the asset was with the assessee. Has it been treated as stock-in-trade, or has it been shown in the books of account and balance sheet as an investment. This inquiry, though relevant, is not conclusive.

(d) The fourth test is as to how the assessee himself has returned the income from such activities and how the Department has dealt with the same in the course of preceding and succeeding assessments. This factor, though not conclusive, can afford good and cogent evidence to judge the nature of transaction and would be a relevant circumstance to be considered in the absence of any satisfactory explanation.

(e) The fifth test, normally applied in cases of partnership firms and companies, is whether the deed of partnership or the memorandum of association, as the case may be, authorizes such an activity.

(f) The last but not the least, rather the most important test, is as to the volume, frequency, continuity and regularity of transactions of purchase and sale of the goods concerned. In a case where there is repetition and continuity, coupled with the magnitude of the transaction, bearing reasonable proportion to the strength of holding, then an inference can readily be drawn that the activity is in the nature of business.

26. We need to examine the facts of this case, keeping in mind the principles laid down in the judicial precedents cited above. Ld. A.R. Shri Dhinal Shah submitted that the assessee is an Investor who holds various securities as investment. A small part of her investment is held as land. He states that the co-owner of the land in question in the year under appeal is a developer but not the assessee. He further submits that the assessee has been consistently holding the land as capital asset and disclosing the income earned from the sale of such land as Short Term or Long Term Capital Gains as the case may be. It is further stated that the assessee's return disclosing income from sale of land as Short Term and Long Term Capital Gains has been accepted in the assessment made u/s 143(3) for the Asst. Year 2022-23. In the course of hearing, the ld. A.R. has submitted a copy of the computation of income and the assessment order for the Asst.

year 2022-23. We note that the assessee has offered total Short Term Capital Gain of Rs.10,30,73,144/- and Long Term Capital Gain of Rs.447,49,79,406/- which includes the capital gains arising from sale of land. This has been accepted by the Assessing Officer vide Assessment Order dated 22-03-2024 for the Asst. year 2022-23. The Ld. A.R. further contended that the assessee has always treated the land and other assets as investments and not as stock-in-trade. Her intent, as apparent from records, has never been to treat the land as stock-in-trade. In the computation of income for the year under appeal as also in the immediately preceding year, the appellant showed Nil income from business or profession whereas she offered significantly large sums as income from capital gains, both Short Term and Long Term. Consistent with this practice, she has never accounted for the cost of acquisition of the land as a Revenue expenditure to be set off against the sale price.

27. The Ld. A.R. has also pointed out that contrary to the assessing officer's claim, that the assessee had created small plots and sold the same to various buyers, the assessee has sold the entire lot of the land parcels to only one buyer in the relevant previous year. The Ld. CIT(A), we note, has proceeded on the basis that the assessee did not respond to the notices of hearing and did not submit the details. On this ground, the Ld. CIT(A) has held that there was nothing on record to enable the assessee to controvert the findings of the assessing officer.

28. Ld. Sr. D.R. Shri Amit Pratap Singh invited our attention to Para 3.4 of the assessment order and relied on the same to support the assessing officer's action.

29. Ld. A.R. has invited our attention to the details filed by the assessee along with written submission before the CIT(A) on 11-09-2025. He has produced in the Paper Book the e-proceedings response acknowledgement clearly evidencing the various details filed by the assessee as annexure to the written submissions. He states that the Ld. CIT(A) erred in recording the finding that the assessee had merely sought an adjournment on 11-09-2025 without submitting any response to the notices of hearing.

30. After hearing both parties and on perusal of the records submitted before us, we find firstly that the assessee had indeed submitted an elaborate written submissions along with several Annexures before the CIT(A) but the same has not been noticed by the Ld. CIT(A). It is also evident that the assessee has consistently been treating the land as her investment and the income from sale of land as capital gains and the same is stated to have been accepted by the department in the immediately preceding and the immediately succeeding year i.e. Asst. year 2022-23 and Asst. Year 2024-25.

31. The only exception is in Asst. Year 2023-24 which is before us in appeal. We may note at this juncture that the ld. A.R. has not produced any assessment order or return of income for Asst. year 2024-25, although he has stated that the assessee had treated the income from sale of land as capital gains in that year too.

32. Keeping in mind the test laid down by the Hon'ble Gujarat High Court in Pari Mangaldas Girdhardas vs. CIT (supra), we find that the assessee in the present case has established her intention not to treat the land as stock-in-trade but as investment, offered the income from sale of such investment as Short Term or Long Term Capital Gains and the Revenue has accepted the assessee's treatment in the immediately preceding and

succeeding years. We also notice that the assessee holds significantly large investment and assets in the form of various financial securities and land and she does not carry on any business activity. We also note that all the land parcels in this year were sold to one party i.e., Anantbaug Plantations Pvt. Ltd. This fact was submitted before the A.O. and has been reproduced in the assessment order but the assessing officer appears not to have taken note of the same while concluding the assessee had sold the land to various buyers. This finding of the A.O. has been repeated by the CIT(A) without taking note of the submissions filed by the assessee. The A.O. has also conveniently used the assessee's consistent practice of treating the purchase of land as investment and not claiming the same as a Revenue expenditure incurred for purchase of stock-in-trade, to deny the assessee the benefit of computing business income by reducing the cost. Consequently, the A.O. has conveniently taxed the gross sale consideration as the business income of the assessee.

33. On perusal of all the relevant facts and in line with the judicial precedents laying down the guideline for determining whether the purchase and sale of land to be treated as capital transaction or an adventure in the nature of trade, we are satisfied on the facts of this case that this was a transaction of sale of capital assets and the income arising therefrom is assessable under the head capital gains. We notice that while the assessee has claimed the capital gains to be Long Term, this aspect has not been examined at any stage and the assessee has not produced anything before us to offer a conclusive finding that the gain was Long Term or Short Term. We therefore direct the assessing officer to obtain evidence regarding acquisition of land and determine if the same had been held for two years prior to transfer and if so, then accept the assessee's contention that the gain was Long Term. We also direct the Assessing Officer to

verify from the assessment records regarding the assessee's treatment of land in its computation of income for Asst. year 2024-25 and if the same has been accepted by the department.

34. Accordingly, the assessee's **Grounds of Appeal No. 1 and 1.2 are allowed.**

Ground No. 2 relates to addition of Rs.49,64,279/- made by the Assessing Officer by treating income distributed by various business trusts/REITs as taxable income instead of exempt income.

35. During the course of assessment proceedings, the Assessing Officer observed that the assessee had claimed exempt income of Rs.49,64,279/- received from various SEBI registered business trusts namely Embassy Office Parks REIT, Mindspace Business Parks REIT, Powergrid Infrastructure Investment Trust and investments made in REITs through PMS route. According to the Assessing Officer, exemption under section 10(23FD) of the Act was not available and therefore the distributed income was liable to be taxed under the head "Income from Other Sources". The Ld. CIT(A) confirmed the addition made by the Assessing Officer.

36. The controversy involved in the present ground essentially relates to interpretation of sections 10(23FD), 10(23FC), 115UA and section 194LBA of the Act and whether dividend income distributed by a business trust remains exempt in the hands of unit holder where the underlying SPV has not exercised option under section 115BAA of the Act.

37. At this stage, it would be relevant to reproduce section 10(23FD) of the Act:

> *"Any distributed income, referred to in section 115UA, received by a unit holder from the business trust, not being that proportion of the income which is of the same nature as the income referred to in sub-clause (a) of clause (23FC) or sub-clause (b) of said clause (in a case where the special purpose vehicle has exercised the option under section 115BAA) or clause (23FCA)."*

38. Similarly, section 10(23FC) provides exemption in respect of specified income earned by business trust from SPVs.

39. A combined reading of sections 10(23FD), 10(23FC) and section 115UA makes it clear that the taxation regime governing REITs and business trusts follows a "pass-through" mechanism whereby specified categories of income retain same character in the hands of unit holders as they had in the hands of the business trust.

40. The dispute in the present case mainly arises because dividend income distributed by business trust becomes taxable in the hands of unit holder only where the underlying SPV has exercised concessional tax regime under section 115BAA of the Act. Conversely, where the SPV has not exercised option under section 115BAA and continues under normal tax regime, the dividend distributed through business trust remains exempt both in the hands of business trust and in the hands of unit holder.

41. This legal position also becomes evident from interplay of section 194LBA of the Act dealing with TDS obligations of business trusts.

42. Section 194LBA(1) provides that business trust is required to deduct tax while distributing certain taxable income to resident unit holders. However, section 194LBA(2A) specifically carves out an exception and provides as under:

> *"Nothing contained in sub-sections (1) and (2) shall apply in respect of income of the nature referred to in sub-clause (b) of clause (23FC) of section 10,* ***if the special***

purpose vehicle referred to in the said clause has not exercised the option under section 115BAA.”

43. Thus, the Act itself recognizes that where dividend income distributed by business trust originates from SPVs which have not opted for section 115BAA regime, such income remains exempt in the hands of unit holder and consequently no TDS is required to be deducted by the business trust under section 194LBA.

44. In the present case, the assessee has placed on record declarations and tax communications confirming that their SPVs had not exercised option under section 115BAA of the Act. The communications issued by the business trusts themselves categorically clarify that dividend income distributed to unit holders would remain exempt.

45. We further notice that the assessee has placed on record Form 26AS demonstrating that the business trusts deducted TDS only on taxable interest portion and no TDS whatsoever was deducted on exempt dividend component. This factual aspect assumes significant importance because the non-deduction of tax itself flows directly from section 194LBA(2A), which applies only where dividend income remains exempt in the hands of unit holder.

46. Therefore, the conduct of the business trusts in not deducting TDS on dividend component is consistent with statutory framework contained in sections 10(23FD), 10(23FC) and section 194LBA(2A) of the Act.

47. Accordingly, considering the Statutory scheme contained in sections 10(23FD), 10(23FC), 115UA and section 194LBA of the Act together with documentary evidences placed on record, we hold that the distributed income of Rs.49,64,279/- received by the assessee from the

business trusts was correctly claimed as exempt income and therefore the authorities below were not justified in bringing the same to tax under the head "Income from Other Sources".

48. We therefore direct the Assessing Officer to delete the addition of Rs.49,64,279/-.

49. Accordingly, Ground No.2 raised by the assessee is allowed.

50. Ground Nos.3 and 4 relating to levy of interest under sections 234B and 234D are consequential in nature and therefore require no separate adjudication.

51. In the result, the appeal of the assessee is allowed.

This Order pronounced in Open Court on 26/10/2026

Sd/-	**Sd/-**
(DR. BRR KUMAR)	**(TAPAS RAM MISRA)**
VICE PRESIDENT *True Copy*	**JUDICIAL MEMBER**

Ahmedabad; Dated 26/10/2026
Rajesh

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