

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "B" BENCH

**Before: Smt. Annapurna Gupta, Accountant Member
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA Nos.977 & 978/Ahd/2019
IT(SS)A No. 343/Ahd/2019
Asst. Years 2007-08 & 2014-15 & 2013-14**

Saketkumar Rugnath Tanna 68, Chimanbhai Jivabhai Market, Vasna, Ahmedabad-382460. PAN: ABCPT5144R (Appellant)	Vs	The D.C.I.T, Central Circle-2(2), Ahmedabad. (Respondent)
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**ITA No.976/Ahd/2019 &
IT(SS)A No. 337/Ahd/2019
Asst. Year 2014-15 & 2013-14**

Indumati Rugnath Tanna, By L/h.Saketkumar Rugnath Tanna, 68, Chimanbhai Jivabhai Market, Vasna, Ahmedabad-382460. PAN: ACDPT3383Q (Appellant)	Vs	The D.C.I.T, Central Circle-2(2), Ahmedabad. (Respondent)
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**ITA No.921/Ahd/2019
Asst. Year 2007-08**

The A.C.I.T. Central Circle-2(2), Ahmedabad. (Appellant)	Vs	Indumati Rugnath Tanna, By L/h.Saketkumar Rugnath Tanna, 68, Chimanbhai Jivabhai Market, Vasna, Ahmedabad-382460. PAN: ACDPT3383Q (Respondent)
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**ITA No.975/Ahd/2019 &
IT(SS)A No. 331/Ahd/2019
Asst. Year 2014-15 & 2013-14**

Ritaben Saketkumar Tanna, 68, Chimanbhai Jivabhai Market, Vasna, Ahmedabad-382460. PAN: AASPT6796Q (Appellant)	Vs	The A.C.I.T. Central Circle-2(2), Ahmedabad. (Respondent)
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**ITA No.920/Ahd/2019
Asst. Year 2007-08**

The A.C.I.T, Central Circle- 2(2), Ahmedabad. [Appellant]	Vs	Ritaben Saketkumar Tanna, 68, Chimanbhai Jivabhai Market, Vasna, Ahmedabad-382460. PAN: AASPT6796Q (Respondent)
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**Assessee Represented : Shri Mehul K. PATEL, AR
Revenue Represented : Shri Sudhendu Das, CIT-DR**

Date of hearing : 04-07-2024
Date of pronouncement : 28-08-2024

आदेश/ORDER

PER BENCH:

These Appeals are filed by the Assessee and the Revenue as against separate appellate orders passed by the Commissioner of Income Tax (Appeals)-7, Ahmedabad arising out of the assessment orders passed under sections 144 r.w.s. 147 and 143[3] of the

Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Years as mentioned in the cause title. Since the issues involved in these appeals are abated/pending assessments and additions made thereon are identical in nature and the Assessee herein are same family members of Son, Mother and Wife, for the sake of convenience the same are disposed of by this common order.

2. IT(SS)A No. 343/Ahd/2019 relating to Asst. Year 2013-14 in the case of Shri Saketkumar Rugnath Tanna is taken as the lead case. The brief facts of the case is that the assessee is an individual and Proprietor of M/s. Saketkumar Rugnath engaged in the business of Commission Agent of agricultural commodities at Agricultural Produce Market Committee (for short 'APMC'), Vasna, Ahmedabad. There was a survey action u/s. 133A of the Act at the business premises on 15-10-2013 as well as a search action u/s. 132 of the Act at the residential premises of the assessee. Following the search action notice u/s.153A of the Act was issued on 26.08.2014 and the assessee filed his Return of Income for the Asst. Years 2008-09 to 2014-15.

3. During the course of assessment proceedings, there were NO incriminating materials found or seized. The assessee filed his original Return of Income u/s.139(1) of the Act as well as in response to the notices issued u/s.153A and 148 of the Act. The assessing officer after making various hearings made the following disallowances which are discussed as issue wise as follows:

3.1. CASH DEPOSITS IN BANK ACCOUNT: The AO has observed that the assessee made cash deposits of Rs.16,09,54,498 in his current account no. 409 with Mahila Vikas Co-Operative Bank (hereinafter referred as MVCB) from FY 2007-08 to 2013-14 till date of search and during the year under consideration, there was cash deposit of Rs.3,74,66,498 in above bank account. The assessee in his statement recorded during the course of search/survey on 15-10-2013 and in reply to **question no 19 and question 42 of statement recorded on 16/10/2013** has stated that cash deposited in above account is out of total cash collected from three concerns of the assessee namely M/s. Saketkumar Rugnath, M/s. Bhavchand Jairam and Ms. Raghunath Bhavchand. Thus, AO in his notice asked assessee to give bifurcated amount of cash deposited in the three concerns. The AO has also **referred to question nos. 37 & 48 of statement recorded on 17/10/2013**, wherein the assessee has stated that he has taken cash from five parties/sharoffs and such cash loans are not reflected in the balance sheet as loans were taken for only 2 to 3 days and thereafter it was squared up, hence AO asked the assessee to submit copies of accounts in respect of cash loan taken from Shroffs to establish genuineness and creditworthiness of the Shroffs. The AO has also referred to **post search statement recorded on 04/04/2014**, wherein in reply to question no 3, the assessee has stated that he has taken cash from Shroffs to pay the farmers, in reply to question No. 5, it was submitted that payment received from customers as well as Shroffs were entered into cash book and cash deposits are used for payment of business expenses incurred. The assessee in his statement has stated that he has not

done any cheque discounting business, whereas cash book submitted by the assessee show sufficient cash balance on each day and such cash balances were sufficient for making payment to the farmers, which goes to prove that cash taken from Shroff are not used for making payment to farmers, hence the Ld. A.O. asked the assessee to provide explanation regarding cash deposited in bank account with MVCB.

3.2. The assessee stated that cash was taken from Shroffs after giving post dated cheques [PDCs] and cash received is paid to farmers and agricultural produces so acquired are delivered to Traders from whom cash received was deposited in his bank accounts. Thereafter, PDCs given to the Shroffs were cleared, thus the assessee explained that sources of cash deposits are cash receipts from business. It was also contended by the assessee that, as all the three firms have discounted their cheques with the Shroffs and got the cash against the cheques, therefore such amounts are not loans or deposits for which provisions of section 269SS are not attracted. However in his reply the assessee has not bifurcated cash deposits in MVCB and in the Three concerns. The assessee has stated that Rs.1,55,39,500/- pertain to his Firm assessee. The assessee further stated that amount pertaining to M/s. Rugnath Bhavchand Prop. Smt. Indumatiben R. Tanna is Rs.8,45,000 which pertains to bank account no 182 and Rs.2,29,500 pertain to Bhavchand Jairam Prop Ritaben S. Tanna, which pertains to bank account no 183 and these two deposits do not pertain account no.409. Hence entire cash deposited in bank account no 409 is considered in his hands as substantial addition

and protective assessment in the hands of Smt. Indumatiben R. Tanna and Smt. Ritaben S. Tanna.

3.3. Thereafter, AO has provided assessee bifurcation of cash deposits, cheque deposits and interest amount of all the bank accounts held in the name of the assessee and asked him to explain source of such deposits. The assessee has reiterated the contention regarding cash deposits and explained that sources of credit in the bank account is the cheque discounted from Shroffs and cheques received from Traders to whom agricultural produces were sold. It was also stated that due to uncertainty of business, he has to keep cash on hand with him and carry out cash discounting, which is commercial expediency. The above explanation was not accepted by AO on the ground that assessee is working as Commission Agent only, which is evident from audit report hence such Agent is not required to make payment to farmers directly but actual buyer/trader is required to pay such farmers directly. The AO has also referred to reply dated 05-08-2015 filed by the assessee, wherein he has stated that there was no trading business of onion and potatoes during the year. The AO has also referred to impounded cash book and accounts maintained in Kisan Software wherein it is found that most of cash deposited in the MVCB pertained to cash taken from Shroffs and not for realisation of sale proceeds which makes entire theory of assessee incorrect. The **AO has referred to various statement of Shroffs** taken during the post search inquiry from which it is found that none of the Shroffs produced the sources of cash given to the assessee or unable to produce the name of persons from whom cash was received by

them and thereafter cash was transferred to the assessee. Thus the Ld AO brought on record that statement of Shroffs and assessee are contradictory, there was various discrepancy in balance shown in assessee's account and Shroffs account, hence AO concluded that assessee failed to prove sources of cash deposit in his bank account. Further the assessee could not offer explanation of keeping huge cash balance and taking cash loans from Shroffs and also could not provide any explanation regarding cash deposited with other bank accounts. Therefore the Ld AO in assessment order made addition of Rs.3,74,66,498 being cash as well as cheque deposits in various bank account.

4. Inflating the Expenditure: The AO has referred to page No. 216 of Annexure A/41 of impounded material which reflects Profit & Loss Account for AY 2013-14 which shows that income of assessee is Rs.21.90 lacs on total income of Rs.38.18 lacs whereas page No. 205 of Annexure A/41 shows net profit of Rs.3,81,009/- after debiting expenditure of Rs.33,95,816 in Kisan Software. On this basis AO has arrived at conclusion that assessee is inflating the expenditure.

5. Disallowance of Business Expenses: The AO vide Question No.24 of the notice issued u/s.142[1] asked the assessee to furnish details of the expenses namely Kasar expenses. Municipal taxes, Staff Salary, Staff Sarbhara, Diesel expenses, Khedut loading charges, Kasar [Discount], transport commission, travelling and bed debts along with documentary evidences. The assessee only submitted ledger accounts of the above expenses but did not

submit any bills and vouchers for verification. Therefore the AO adhoc disallowance at 20% and 10% on Salary & Staff Sarbhara and Kasar [discount] expenses at 50% u/s.37[1] of the Act.

6. Disallowance of Depreciation: Similarly, the assessing officer made disallowance on claim of depreciation on the ground that the assessee failed to provide the bills of the assets purchased during the year. The AO also made disallowance on under Chapter VIA.

6.1. The total disallowances made by the Assessing Officer and the Grounds of Appeal raised by the assessee before this Tribunal is tabulated as below:

Sl. No.	Grounds of Appeal	IT(ss)/343/A/19 A.Y.2013-14	ITA 978/A/19 A.Y.2014-15	ITA 977/A/19 A.Y.2007-08
1	Challenging validity of assessment	Not Pressed	Not Pressed	Not Pressed
2	Addition u/s 69 in respect of cash deposited and cheque Clering/ transfer entries in Bank Account	3,74,66,498	2,15,00,205	3,17,83,256 52,97,389
3	Disallowance u/s 36(1)(iii)	11,114		
4	Disallowance of business expenses claimed in P&L A/c Municipal Tax Bad Debt Salary @ 10% Transport, Khedut lodging etc. @ 20% Kasar(Discount) @ 50%	-- 3,32,019 58,841 1,71,844 2,63,606 8,26,310	-- 4,10,591 1,39,768 2,53,464 5,58,508 13,62,331	39,952 1,27,823 1,67,775
5	Disallowance of deductions claimed under Chapter VIA	77,958	6,815	--
6	Disallowance of depreciation	8,347	1,62,364	
7	Addition u/s.68	2,00,000		
8	Unaccounted Sales	15,63,690	--	--
9	Addition u/s.41(1) of the Act	--	2,87,000	----

7. Aggrieved against the assessment orders, the assessee filed appeals before Commissioner of Income Tax (Appeals)-7, Ahmedabad. The Ld. CIT(A) called for Remand Report from the assessing officer on various issues and partly allowed the assessee appeals and partly confirmed the additions made by the assessing officer.

8. Aggrieved against the appellate orders, the assessee is in appeal before us raising the following Grounds of Appeal:

"1. The learned Commissioner of Income Tax (Appeals) -7, Ahmedabad ["CIT(A)"] erred in fact and in law in confirming the action of the learned Deputy Commissioner of Income Tax, Central Circle-2(2), Ahmedabad ["the AO"] in making the additions to the returned income u/s. 153A of the Income Tax Act, 1961 ("the Act") despite the fact that no incriminating material was found during the course of search.

Unexplained Investment u/s 69 of Rs. 3,74,66,498:

2 The learned CIT(A) erred in fact and law in confirming the action of the Id. AO in making addition of Rs. 3,74,66,498/- in respect of cash deposited in bank account maintained with Mahila Vikas Co-operative Bank Ltd. by invoking provisions of Section 69 of the Act.

3. The learned CIT(A) erred in fact and law in confirming the action of the Id. AO in invoking section 69 of the Act despite the fact that cash deposit was recorded in the books of account of the Appellant and hence provisions of section 69 were not attracted in the case of the Appellant.

4. The learned CIT(A) erred in fact and law in confirming the action of the Id. AO in making the addition u/s 69 despite the fact that the Appellant had explained the source of cash deposited in the bank account.

5. The learned CIT(A) erred in fact and law in confirming the action of the Id. AO in making the addition u/s 69 without appreciating the facts in proper perspective.

6. The learned CIT(A) erred in fact and law in confirming the action of the Id. AO in holding that no payment could have been made by the Appellant to farmers without appreciating the provisions of The Gujarat Agricultural Market Produce Act, 1963 ("GAMPA").

7. The learned CIT(A) erred in fact and law in confirming the action of the Id. AO in making addition u/s 69 on the basis of assumptions, surmises and conjectures.

Unaccounted Sales:

8. The learned CIT(A) erred in fact and law in confirming the action of the Id. AO in making an addition of unaccounted sales amounting to Rs. 15,63,690/-.

9. The learned CIT(A) erred in fact and law in confirming the action of the Id. AO in making an addition of unaccounted sales despite the fact that no sale was made by the Appellant.

Other Grounds:

10. The learned CIT(A) erred in fact and law in confirming the action of the Id. AO in making disallowance of Rs11,114/-u/s. 36(1)(iii) of the Act.

11. The learned CIT(A) erred in fact and law in confirming the action of the Id. AO in making a disallowance of business expenditure amounting to Rs. 8,26,310/-.

12. The learned CIT(A) erred in fact and law in confirming the action of the Id. AO in making a disallowance of depreciation of Rs. 8.347/-

13. The learned CIT(A) erred in fact and law in confirming the action of the Id. AO in making a disallowance of deductions of Rs. 77,958/- claimed by the Appellant under Chapter VI-A of the Act.

14. The learned CIT(A) erred in fact and law in confirming the action of the Id. AO in making addition of Rs. 2,00,000/- as unexplained credit by invoking section 68 of the Act.

15. The learned CIT(A) erred in fact and in law in confirming the action of the AO in initiating penalty proceedings u/s. 271(1)(c) of the Act.

16. Your Appellant craves the right to add to or alter, amend, substitute, delete or modify all or any of the above grounds of appeal.

9. We have heard the submissions of the Ld Counsel for the assessee Sri. Mehul K. Patel and perused the materials available on record including the Paper Books filed by the assessee. At the outset Ld Counsel stated that **he is NOT PRESSING Ground No. 1**

challenging the Jurisdiction of assessment, recording the same **Ground No.1 is hereby dismissed.**

10. Regarding Ground Nos. 2 to 7 Unexplained Investment u/s.69 of Rs.3,74,66,498: In this case search action was conducted on 15.10.2013, therefore time limit for issuance of notice u/s.143[2] and proceed with assessment was pending for the asst. year 2013-14, thus it is abetted assessment. It is undisputed fact that the assessee filed his original Return of Income regularly u/s.139[1] and no scrutiny assessment taken place against the original Returns. [It is to be placed on record that for the unabetted asst years 2008-09 to 2012-13 this very same Bench vide order dated 30-07-2024 in ITA Nos.338 to 342/Ahd/2019 and others partly allowed the appeals in favour of the assessee. Remaining abetted/pending assessments are now dealt in this common order].

10.1. Ld Counsel submitted that the addition is made in respect of cash deposited and cheque clearing and transfer entries in bank account, which is already disclosed and forming part of the Audited Accounts. In this connection Bank Statements and Balance Sheets are available at pages 20-46 and 16 of the Paper Book. The assessee being a Commission Agent of APMC, as per practice and APMC Rules, in order to protect the interest of the Farmers, when they sell their agricultural produce in auction, they are to be settled immediately with CASH payment. Therefore in order to make cash payment to Farmers, CASH is arranged from Shroffs by giving post dated cheques by the assessee. Whereas the assessee gets the payments from the Buyers of the produces, by including his

Commission amount at 5 to 7% after completion of Sales. Thus the assessee deposits the Cash/Cheques received from the Buyers in his bank account and also settled the cash received from Shroffs through the PDCs. The above cash transaction is only because of the business expediency in the Auction business and for the main reason to settle the Farmers with CASH immediate after the auction sales. Further the assessee keeps record of inward and outward movement of agricultural produce purchased under Auction as required under APMC Rules [called Kabala Account] and based on which Commission payable to the Agents and Market Fees payable to APMC are determined.

10.2. It is seen that during the assessment proceedings the AO summoned the Shroffs who have confirmed giving cash to the assessee against Post Dated Cheques and also provided contra ledger account of the assessee from their Books of accounts [which are available at pages 107 to 121 of the Paper Book]. Further complete chart of cash/cheque deposits were also filed before CIT[A] as referred on page 25 of his order. The Ld AO at para 1.7.2. of his order accepts that cash deposited in banks pertains to cash taken from Shroffs. However the final reason given by the AO is the assessee being a Commission Agent is not required to give Cash to Farmers and the Shroffs have not given their Source of Cash, which was given to the assessee, that is 'source of source' not proved. Ld Counsel further submitted that reasons arrived by the Ld AO are not tenable in law and the requirement to prove source of source was not applicable to the present asst. year 2013-14 since the

relevant was inserted by Finance Act, 2022 wef 01-04-2023 only, hence entire addition on this count is liable to be deleted.

11. Per Contra Ld CIT DR Shri Sudhendu Das appearing for the Revenue supported the orders passed by the lower authorities and the same does not require any interference and the additions made by the AO which was confirmed by the Ld CIT[A] are liable to be sustained.

12. We have given our thoughtful consideration, on perusal of the Assessment orders makes it clear that the Ld AO mainly relied on the Statements recorded u/s.132[4] of the assessee on the cash deposits made in Mahila Vikash Co.Op. Bank of Rs.4,04,32,500/- and post search enquiries and the Statement of Shroffs recorded u/s.131[1A] namely Shri Vinoddhara Motilal Shah, Shri Arunkumar C. Thakkar, Shri Dayaram I. Thakkar, Shri Jignesh K. Patel of M/s. J.K. Corporation who produced during the assessment proceedings copy of the Ledger account of the assessee in their books and Smt. Jyotsanaben V. Shah who gave post dated cheques. There is no reference about any incriminating materials seized by the department neither during the Survey proceedings nor under search action. Whereas the addition is made in respect of cash deposited and cheque clearing and transfer entries in bank account, which are disclosed by the assessee and forming part of the audited accounts. Thus there is no incriminating material found during the course of Search and Survey action.

12.1. It is settled Principle of Law that the disclosure or admission made under section 132(4) of the Act during the search proceeding

is admissible evidence, but not a conclusive one. Jurisdictional High Court in the case of DCIT -Vs- Narendra Garg & Ashok Garg (AOP) reported in [2016] 72 taxmann.com 355 (Guj) held that where assessee retracted from disclosure made in statement under section 132(4) which was not accepted by Revenue, and if no undisclosed income was found during search, Revenue could not make addition on bare suspicion and presumption by observing as follows:

“Section [69C](#), read with section [132](#), of the Income-tax Act, 1961 - Unexplained expenditure (Addition on basis of retracted statement) - Assessment years 1990-91 to 1999-2000 - A search operation was carried out at premises of assessee - Assessee retracted from disclosure made in statement under section 132(4) - Retraction was not accepted by Revenue - Assessing Officer made additions of undisclosed income - In fact, there was no reference to any undisclosed cash, jewellery, bullion, valuable article or documents containing any undisclosed income during search - **Whether Assessing Officer could not proceed on presumption under section 132(4) and there must be something more than bare suspicion to support assessment or addition** - Held, yes - Whether Tribunal had rightly reduced additions made by Assessing Officer - Held, yes [Paras 5 and 6][In favour of assessee]

12.2. Respectfully following the above judicial precedent, the asst. years 2013-14 & 2014-15 being abated/pending assessments and the additions are made based only on the Statements recorded of the assessee u/s.132[4] and that of the Shroffs u/s. 131(1A) of the Act, the addition made are without jurisdiction and unsustainable in law, the same are liable to be quashed.

13. Further we found that the Ld AO has not made proper enquiry about the modus operation of similarly placed Commission Agents business at APMC market. Further three out of five Shroffs responded to the 131[6] notices and replied by filing copy of the Ledger account of the assessee in their books, the same was not accepted by the AO on the ground that the Shroffs has not proved the source of their cash, thus demanded to explain the “source of source” from the Shroffs. It is clearly seen that the requirement to prove “source of source” was inserted by the 2nd Proviso to Section 68 by the Finance Act, 2022 with effect from 01-04-2023 and applicable for the Asst. years 2023-24 onwards only, and not applicable to the present asst. year 2013-14. Hence **the entire addition on this count is liable to be deleted and Ground Nos.2 to 7 filed by the assessee are hereby allowed.**

14. **Ground Nos. 8 & 9 namely addition made on account of Unaccounted Sales.** Addition of Rs.15,63,690/- made on purchase of potato based on some noting’s made on a loose paper and admission of Accountant that the same was not entered in regular Books of Accounts of the assessee relating to this A.Y. 2013-14 only. The assessee explained that there is no business of trading of potato and only commission activity is carried out by him. Assessee during appellate proceedings also could not explain the noting’s in the loose paper and rebut the statement of his Accountant. Thus the addition made on this count was sustained by the Ld CIT[A]. Before us also no new material/evidence placed on record to explain the issue of unaccounted sales. **Thus the Ground Nos.8 & 9 are devoid of merits and hereby dismissed.**

15. Ground No.10 namely disallowance made u/s.36[1][iii] of Rs.11,114. The AO made interest disallowance of Rs.11,114/- on the advances of Rs.92,615 on the ground that the assessee has not proved the business expediency of giving such advances to staff members and suppliers. Ld Counsel submitted that the AO made notional interest at 12% on the advance of Rs.92,615/=. Breakup of this amount is in Balance sheet at page 16 of the Paper Book and actual advance is only Rs.16,000/= and the assessee has sufficient interest free capital of Rs.7,17,268/- as reflecting at page 14 of the Paper Book. Therefore the disallowance made on this count is uncalled for and liable to be deleted, since the loans and advances given to staff members and suppliers are temporary loans given as per business policy not to charge interest.

15.1. In response, the Ld DR could not contravene the above submissions of the assessee. Considering the smallness of the amount of loans given to the staff members and suppliers comparing with the interest free capital available with the assessee, the addition made on this count is liable to be deleted. **Thus Ground No. 10 is allowed in favour of the assessee.**

16. Ground No.11 namely disallowance of business expenses claimed in P & L Account. The Ld CIT[A] allowed the expenses by passing a detailed order as follows:

“11.1 I have carefully considered the Assessment Order and the submission filed by the Appellant. The AO has referred to page No. 216 of Annexure A/41 of impounded material which reflects Profit & Loss Account for AY 2013-14 which shows that income of Appellant is Rs.21.90 lacs on total income of Rs.38.18 lacs whereas page No. 205 of Annexure

A/41 shows net profit of Rs.3,81,009 after debiting expenditure of Rs.33,95,816 in Kisan Software. On this basis AO has arrived at conclusion that Appellant is inflating the expenditure. On this basis Appellant asked Appellant to justify the expenditure but Appellant has not submitted any vouchers for verification hence A.O. has made addition of Rs. 9,00,544/- as under:

Particulars	Amount debited in Profit & Loss Account	Amount disallowed	Remarks
Kasar expenses	5,27,213	2,63,606	50% is disallowed
Staff salary and staff sarbhara	5,88,418	67,842	10% is disallowed
Diesel expenses, transportation commission, Khedut loading expenses	6,82,689	1,36,538	20% is disallowed
Bad debt	3,32,019	3,32,019	
Municipal tax	65,233	65,233	Bills not submitted
Travelling expenses	1,76,530	35,306	20%

11.2 It is observed that Appellant has failed to justify such expenditure with bills/vouchers and basis of claiming such expenditure hence he made ad hoc disallowance in Assessment Order. The Appellant has not filed any specific written submission on such disallowance. With regard to disallowance of kasar, AO has observed that Appellant is in the business of commission and he is not involved in trading activities hence Appellant has not established that kasar was debited out of such gross commission. The Appellant has failed to submit bill to bill earning of commission and claim of kasar is not supported by any corroborative evidence hence AO has made reasonable disallowance, which needs to be upheld. It is observed that Appellant has submitted additional evidences only with respect to bad debt disallowed by AO. With regard to disallowance of bad debt of Rs.3,32,019 against commission income of Rs.36,24,988, Appellant has submitted additional evidences being ledger account of bad debt and debtors whose accounts are written off. However, this claim of Appellant cannot be accepted in view of the fact that AO has already held that Appellant is not involved in any credit purchase or credit sale but carrying out only commission business hence there is no question of claiming bad debt in such business. The Appellant has not given any details like bad debt and commission recorded in books of account hence such claim cannot be accepted. The decisions relied upon by Appellant are

on law but in present case disallowance has been made by AO based upon facts of the case of Appellant hence ratio of such decision is not made applicable in present case. Thus, disallowance of bad debt for Rs.3,93,353 is confirmed. So far as disallowance of municipal tax of Rs. 65,233 is concerned, Appellant has submitted copies of bills along with details of payment from which it is evident that Appellant has made payment of municipal tax for three different Assessment Years. As claim made by Appellant is supported by evidences, disallowance made by AO for Rs. 65,233 is deleted. It is also found that AO has made disallowance of 10% of salary expenses and as per expenditure debited in Profit & Loss Account, 10% of expenditure works out to Rs.58,841 as against addition made for Ra.67,842. Considering this fact, excess addition made by AO for Rs. 9,001 is deleted. Thus, Appellant get relief of Rs. 74,234 out of total addition of Rs. 9,00,544. This ground of appeal is partly allowed.”

16.1. Ld Counsel has no serious arguments on the disallowances made on account of salary at 10% and Diesel, Transport Commission, Khedut lodging, Travelling expenses at 20% in the absence of proper bills and vouchers. But on account of Kasar [Trade] discount and Bad debts he vehemently submitted the Ld. A.O. made an addition of Kasar Expenses of Rs.2,63,606 (i.e 50% of 5,27,213) and explained that Kasar vatav is incurred in the normal course of business while receiving payments, if the customer gives some lesser amount which is very minute as compared to business carried out with them. In the normal trade practice, Commission Agents has to make payment to the Farmers, on behalf of traders/ vendors, who comes to the Agents to sell their goods. Sometimes it may happen that Traders/Venders makes lesser payments as compared to amount charged in bill and to retain this type of customers and maintain relationship with customers, the appellant to give them Kasar or Trade Discount and referred to the ledger of Kasar from Page No. 78 to 80 of Paper book.

16.2. The Ld. A.O has made addition of Bed-Debt of Rs.3,32,019/- on the ground of non-compliance of section 36(2) of Act. Further Ld A.O has observed that "Since the assessee had been Commission Agent and was not found linked with any sale made during the year. In this regard, Ld Counsel submitted that assessee is working as a Commission Agent for purchase and sale of agriculture product like onion and potato. Also assessee has already explained modus operandi of his business and has not violated provision contained in section 36(2) of the Act. Further assessee filed before Ld CIT [A], Ledger of the debtors from the origin, whose bed debt is claimed as fresh evidences as per Rule 46A of the Income Tax Rules, 1962 which can be verified the genuineness of the transaction.

17. We have perused the materials on record and the submissions of rival parties, we found that the Ld AO has not made proper enquiry about the modus operation of similarly placed Commission Agents business at APMC market. AO ought to have verified the Kasar expenses was incurred in the normal course of business while receiving payments, if the customer gives some lesser amount which is very minute as compared to business carried out with the assessee. Further the Ld AO failed to verify the Ledger account of Kasar which is placed on record at Page No.78 to 80 of the PB, but made adhoc disallowance at 50% on Kasar expenses. Further the explanation of the assessee that explained that Kasar vatav is incurred in the normal course of business while receiving payments, if the customer gives some lesser amount which is very minute as compared to business carried out with them. In the

normal trade practice, Commission Agents have to make payment to the Farmers, on behalf of traders/vendors, who comes to the Agents to sell their goods. Sometimes it may happen that Traders/Vendors makes lesser payments as compared to amount charged in bill and to retain this type of customers and maintain relationship with customers, which in our considered opinion is practical business exigencies and without verification of the same, the Ld AO made 50% disallowance which is unsustainable in law, the same are liable to be deleted.

17.1. With regard to disallowance of bad debt of Rs.3,32,019 as against commission income of Rs.36,24,988, the assessee had submitted additional evidences before Ld CIT[A] being Ledger Account of bad debts and debtors whose accounts are written off. But the same was not accepted by Ld CIT[A] since the AO has already held that assessee is not involved in any credit purchase or credit sale but carrying out only commission business, hence there is no question of claiming bad debt in such business. The Assessee explained that commission on full amount of bill is already booked as income, however sometimes lesser amount is received from buyers, which is debited as bad debts. Additional submissions with Ledger account of all debtors from inception was submitted before Ld CIT[A] which is recorded at page 35 of the order of CIT[A] and no adverse comments given by the Ld AO in his Remand Report.

17.2. Jurisdictional High Court in the case of CIT -Vs- Abdul Razak & Co [1982] 136 ITR 825 [Guj] held as follows:

“The statutory provision relating to the allowance of a bad debt is not exhaustive. A debt becomes bad for purposes of deduction in the computation of total income if facts objectively considered reasonably point to an inference that, having regard to the circumstances of debtor, it has become difficult or impossible of recovery. There are certain well-known types where financing is usually an integral part of assessee's business. For instance, commission agents employed for sale of principal's goods usually make advances to the principal or another person on his behalf. In such cases, if the debt gets bad, it may successfully be claimed as a trading loss. “

17.3. Further various judicial precedents held that losses incidental to business are allowable as deduction despite there being no specific provision for the same. Some of the important tests laid down by leading judgments as to the allowability of trading losses are as follows:-

A] Business loss is allowable if it is of a non-capital nature and if the same is not only connected with trade but is incidental to trade itself (CIT vs. J.K. cotton Spinning & Weaving Mills Co. (1980) 123 ITR 911 (All.)

b] The degree of the risk or its frequency is not of much relevance but its nexus to the nature of business is material (CIT vs. Nainital Bank Ltd. (1965) 55 ITR 707 (SC)]

c) The loss for which a deduction is claimed must be one that springs directly from the carrying on of the business and is incidental to it, and any loss sustained by the assessee even if it has some connection with his business (Badridas Daga vs. CIT 34 ITR 10 (SC)]

d] If there is a direct and proximate nexus between the business operation and the loss or it is incidental to it, then the loss is deductible, as without the business operation and all that is incidental to it, no profit can be earned (Ramchandar Shivnarayan Vs. CIT (1987) 111 ITR 263 (SC)].

e] The two requisites are (a) the loss is incidental to trade itself, that is to say, there must be a nexus between the loss and the trade which should have been incurred in the course of the trade and (b) the loss should have been incurred by one in the character of a trader and the same should fall

on him in the said character. [CIT vs. K.T.M.S. Mahmood (1969) 74 ITR 100 (Mad.)]

f] In CIT vs. D.S. Bist and Sons 243 ITR 179 (Del.) it has been held that where assessee was forced to purchase securities by department with which it did business, the loss was allowable as business deduction."

17.4. Respectfully following the above judicial precedents, **disallowance of bad debt for Rs.3,93,353 made by the lower authorities are hereby deleted.**

18. **Ground No.12 namely disallowance of depreciation of Rs.8,347.** Ld Counsel submitted that the Ld CIT[A] after calling for a Remand Report from the AO directed him to recompute the claim of depreciation based on the WDV of those assets whose bills are provided in the remand proceedings for earlier assessment years. **Thus this Ground does not require any further adjudication.**

19. **Ground No.13 is disallowance of deduction claimed under Chapter VIA.** Ld Counsel stated that **he is NOT PRESSING this Ground**, recording the same **Ground No.13 is hereby dismissed.**

20. **Ground No.14 addition made u/s.68 of Rs.2 lakhs.** The AO observed that the assessee taken a loan of Rs.2 lakhs from Prashant Desai and has provided only Ledger account and failed to provide Confirmation of Accounts, bank statements during assessment proceedings and hence confirmed u/s.68 of the Act. During Appellate proceedings assessee filed additional documents invoking Rule 46A namely Confirmation of Ledger Account, Full address and PAN details of Prashant Desai, however the addition was confirmed by CIT[A] on the sole ground of creditworthiness was

not proved by providing the ITR and bank statements. Ld Counsel submitted that the loan received by account payee cheque from Prashant Desai and Bank statement is filed at Page 52 of the Paper Book and stated that the loan was repaid in subsequent year. On verification of the above submission, **the addition made u/s. 68 of Rs. 2 lakhs is liable to be deleted.**

21. Other Ground Nos. 15 & 16 are Not Pressed and hence the same are dismissed.

22. In the result the appeal filed by the assessee in IT(SS)A No. 343/Ahd/2019 relating to Asst. Year 2013-14 is partly allowed.

ITA No.978/Ahd/2019 relating to Asst. Year 2014-15.

23. Ground Nos. 1 to 6 relating to addition made u/s.69 in respect of cash deposit, cheque clearing in bank account are identical [except change in figure of Rs.2,15,00,205] with that of the earlier A.Y. 2013-14. Thus the detailed decision made in paragraphs 12 & 13 of this order will be applicable to Mutatis Mutandi and hence **the entire addition on this count is liable to be deleted and Ground Nos.1 to 6 filed by the assessee are hereby allowed.**

24. Ground No.7 is disallowance of business expenses claimed in P & L Account. This ground identical [except change in figure of Rs.13,62,331] with that of the earlier A.Y. 2013-14. Thus the detailed decision made in paragraph 17 of this order will be applicable to Mutatis Mutandi and hence **the addition on this**

count is liable to be deleted and Ground No.7 filed by the assessee is hereby partly allowed.

25. Ground No.8 is disallowance of depreciation of Rs.1,62,364.

Ld Counsel submitted that the Ld CIT[A] after calling for a Remand Report from the AO directed him to recompute the claim of depreciation based on the WDV of those assets whose bills are provided in the remand proceedings for earlier assessment years.

Thus this Ground does not require any further adjudication.

26. Ground No.9 is disallowance of deduction claimed under Chapter VI A. Ld Counsel stated that **he is NOT PRESSING this Ground**, recording the same **Ground No.9 is hereby dismissed.**

27. Ground No. 10 is addition made u/s.41[1] of Rs.2,87,000.

The AO made addition u/s.41(1) of Rs.2,87,000 on the ground that Assessee has not filed any Balance Sheet, ITR and confirmation of two parties being Plash Foundation for Rs.2,31,000 and Pari Ashish Kanubhai for Rs.56,000. The AO has applied the provision of Section 41(1) and contended that as these balances are non-moving credits, addition is required to be made. Assessee has classified such balance as sundry creditors from A.Y. 2008-09. The provisions of Section 41(1) are applicable with reference to business transaction being unpaid amount pertaining to expenditure claimed in Profit & Loss Account in the earlier Assessment Years. Ld CIT[A] confirmed the addition in the absence of any documentary evidences.

27.1. Ld Counsel submitted that this amount is unsecured loan taken in the asst. year 2008-09 which is reflecting in the balance sheet. The Ld. A.O. has made addition of Rs.2,87,000/- u/s. 41(1) of the Act as unsecured loan from Plash Fashion and Pari Ashish Kanubhai as sundry creditors which is not correct. Whereas the A.O. has himself accepted that from Asst. Years 2008-09 to 2012-13 it has been shown under the head of unsecured loans in the balance sheets of the assessee. Hence, it is a human error due to which name of the parties was shown as sundry creditors instead of shown under the head 'unsecured loans' in the balance sheet. Being unsecured loan from the above parties, it cannot be added to the total income invoking Section 41(1) of the Act. Therefore requested to delete the addition and relied upon Jurisdictional High Court Judgment in the case of Dattatray Poultry Breeding Farm (P.) Ltd.-Vs-ACIT reported in [2019] 104 taxmann.com 366 wherein it was held as follows:

"Where existence of liabilities was doubted, same could have been disallowed in year in which it was claimed or could have been treated as unexplained cash credit in hands of assessee under section 68, but same could not be taxed under section 41(1), inasmuch as if liability itself was not genuine, question of remission or cessation thereof would not arise."

27.2. We have given our thoughtful consideration and perused the materials available on record. It is an undisputed fact that this unsecured loan is reflecting in the balance sheet of the assessee from the Asst. Year 2008-09 onwards. It is inadvertently the name of the parties was shown as sundry creditors instead of shown under the head unsecured loan in the balance sheet. Since this amount was never claimed and allowed as deduction in any of the

assessment years, the provisions of section 41(1) will not be applicable to the facts of the present case. Thus the addition made by the Ld AO following Jurisdictional High Court judgment in the case of Dattatray Poultry Breeding Farm (P.) Ltd., the above addition is liable to be deleted. **Thus the Ground No. 10 raised by the Assessee is hereby allowed.**

28. Other Ground Nos. 11 & 12 are Not Pressed and hence the same are dismissed.

29. In the result the appeal filed by the assessee in **ITA No. 978/Ahd/2019 relating to Asst. Year 2014-15 is partly allowed.**

IT(SS)A Nos.337/Ahd/2019 & ITA No.976/Ahd/2019 relating to the Asst. Years 2013-14 & 2014-15 in the case of late Smt. Indumati Rugnath Tanna, rep by her legal heir Sri. Saketkumar R Tanna.

30. Late Smt. Indumati Rugnath Tanna is the mother of Sri. Saketkumar R Tanna and was the Proprietrix of M/s. Rugnath Bhavchand engaged in the business of Commission Agent of agricultural commodities at Agricultural Produce Market Committee (for short 'APMC'), Vasna, Ahmedabad. There was a survey action u/s.133A of the Act at the business premises on 15-10-2013 as well as a search action u/s. 132 of the Act at the residential premises of the assessee. Following the search action notice u/s. 153A of the Act was issued on 26.08.2014 and the assessee filed her Returns of Income for the Asst. Years 2008-09 to 2014-15.

31. During the course of assessment proceedings, there were NO incriminating materials were found or seized. The assessee filed his original Return of Income u/s. 139(1) of the Act as well as in response to the notice u/s. 153A of the Act. The assessing officer after making various hearings made the disallowances which are subject matter of appeal before us are as follows:

Sl. No.	Ground of appeal	337/A/19 A.Y. 2013-14	976/A/19 A.Y. 2014-15	921/A/19 A.Y. 2007-08 Revenue Apl
1.	Challenging validity of assessment	Not Pressed	Not Pressed	Not Pressed
2 to 7	Addition u/s 69 in respect of cash deposited and cheque Clearing/ transfer entries in Bank Account	4,94,562	16,63,970	3,17,83,256 On Protective Basis
8	Disallowance of business expenses claimed in P & L A/c.: Salary @ 10% Kasar@ 50% Loading Exp @ 20% Bad Debt	16,850 64,901 9,350 -- <hr/> 91,101	34,000 1,11,264 -- 3,98,455 <hr/> 5,43,719	13,344 -- -- -- <hr/> 13,344
9	Disallowance of Donation	2,578	500	--
10	Disallowance of business loss	--	1,29,656	--
.11	Unexplained Investment in Jewellery & Silver Utensils	--	16,79,521	--

32. The facts and business of the assessee are identical in nature and findings given in the case of Sri. Saketkumar R Tanna will be squarely applicable to the facts of the present case except change in figures. At the outset Ld Counsel stated that **he is NOT PRESSING Ground No. 1 challenging the Jurisdiction of assessment**, recording the same **Ground No.1 is hereby dismissed.**

33. Ground Nos. 2 to 7 relating to addition made u/s.69 in respect of cash deposit, cheque clearing in bank account are identical with that of the A.Y. 2013-14 in the case of Sri. Saket kumar R Tanna. Thus the detailed **decision made in paragraphs 12 & 13 of this order will be applicable to Mutatis Mutandi** and hence **the entire addition on this count is liable to be deleted and Ground Nos.2 to 7 filed by the assessee are hereby allowed.**

34. Ground No.8 is disallowance of business expenses claimed in P & L Account. This ground identical [except change in figure of Rs.91,101] with that of the A.Y. 2013-14 in the case of Sri. Saket kumar R Tanna. Thus the detailed decision made in paragraphs 17 to 17.2 of this order will be applicable to Mutatis Mutandi and hence **the addition on this count is liable to be deleted and Ground No.8 filed by the assessee is hereby partly allowed.**

35. Ground No.9 is disallowance of donations, Ld Counsel stated that **he is NOT PRESSING this Ground,** recording the same **Ground No.9 is hereby dismissed.**

36. Ground No.10 is disallowance of business loss of Rs.1,29,656 [Applicable only for this A.Y. 2014-15]. Ld Counsel stated that the assessee during surplus supply of agricultural produce and lesser demand in the market results in loss and sell the produce on much lesser price since perishable nature of goods. The Ld AO has not accepted the above submissions in the absence of any evidence in support of the claim. The Ld CIT[A] also held that when the assessee claim to function as a Commission Agent

this claim of loss is not acceptable. Ld Counsel submitted that some time unsold and perishable goods of Farmers are taken by the assessee on Commission and then sold to available buyers at lesser price on Commission and the difference is claimed as incidental business loss.

36.1. We have carefully considered the submissions of the assessee but it is found that business loss is claimed only for the present Asst. year 2014-15, for the earlier asst. years no such claim is made by the assessee. In the absence of proof for lesser commission income on sale of perishable goods, the above claim of business loss is not allowable. **In the result this Ground No.10 is liable to be dismissed.**

37. Ground No.11 & 12 is addition of Rs.16,79,521/- as Unexplained investment in Jewellery and Silver Utensils [Applicable only for the A.Y. 2014-15]. The Ld AO found total gold jewellery at 1037.37 gms and gave deduction of 500 gms being a married woman and added balance 537.37 gms as unexplained investment of Rs.13,37,021 and also silver utensils of 8350 gms at Rs.3,42,500/=. Ld Counsel submitted that the jewellery belongs to all family members residing together as Joint family. Assessee was the head of the family aged about 70 years and married life of more than 50 years. She has 5 daughters and 1 son and daughter-in-law with many grand children. The assessee explained the investment in Jewellery and Silver Utensils while replying to the AO by way of Chart which is available at Pages 52 to 55 of the Paper Book, wherein jewellery received on marriage, various social occasions,

anniverseries, child births, etc as per prevailing customs in their community. Ld Counsel also relied on Delhi High Court judgement in the case of Ashok Chaddha reported in [2011] 14 Taxmann.com 57 [Del] and requested to delete the addition.

38. We have carefully considered the submissions of the assessee and Ld DR could not dispute family background of the assessee and her family members. Thus the holding of jewellery 1037.37 gms and silver utensils of 8350 gms by the assessee with the age of 70 years and more than 50 years of married life is a most reasonable one in our Indian Customs, therefore the addition on this account of unexplained investment is liable to be deleted following Delhi High Court judgement in the case of Ashok Chaddha wherein it was held as follows:

“Section 69A of the Income-tax Act, 1961 Unexplained moneys - Assessment year 2006-07- During a search at assessee's residential premises, 906.900 gms jewellery was found from assessee Assessee explained that he was married 25 years back and jewellery was received by his wife in form of 'stree dhan' or on other occasions such as birth of a child, etc. - Assessing Officer accepted only 400 gms of jewellery as explained and treated 506.900 gms of jewellery as unexplained and, accordingly, made addition under section 69A- **Whether collecting jewellery of 906.900 gms by a woman in a married life of 25 years in form of stree dhan or on other occasions is abnormal Held, no Whether therefore, Assessing Officer was unjustified in treating only 400 gms as 'reasonable' and treating remaining jewellery as 'unexplained' - Held, yes - Whether, therefore, addition made was to be deleted - Held, yes [In favour of assessee]”**

38.1. Thus the addition on this count of Rs.16,79,521/- as unexplained investment in Jewellery and Silver Utensils is hereby deleted and **Ground No.11 & 12 are allowed.**

39. **Other Ground Nos.13 & 14 are Not Pressed and hence the same are dismissed.**

40. In the result the appeal filed by the assessee in **IT(SS)A Nos. 337/Ahd/2019 & ITA No.976/Ahd/2019** relating to the Asst. Years **2013-14 & 2014-15 are partly allowed.**

IT(SS)A No.331/Ahd/2019 and ITA No.975/Ahd/2019 relating to the Asst. Years 2013-14 & 2014-15 in the case of Smt. Ritaben Saketkumar Tanna.

41. Smt. Ritaben Saketkumar Tanna is the wife of Saket kumar R Tanna and Proprietrix of M/s. Bhavchand Jairam engaged in the business of Commission Agent of agricultural commodities at Agricultural Produce Market Committee (for short 'APMC'), Vasna, Ahmedabad. There was a survey action u/s. 133A of the Act at the business premises on 15/10/2013 as well as a search action u/s. 132 of the Act at the residential premises of the assessee. Following the search action notice u/s. 153A of the Act was issued on 26.08.2014 and the assessee filed her Returns of Income for the Asst. Years 2008-09 to 2013-14.

42. During the course of assessment proceedings, there were NO incriminating materials were found or seized. The assessee filed her original Return of Income u/s. 139(1) of the Act as well as in

response to the notice u/s. 153A of the Act. The assessing officer after making various hearings made the disallowances which are subject matter of appeal before us are as follows:

Gr. No.	Ground of appeal	331/A/19 A.Y. 2013-14	975/A/19 A.Y. 2014-15	920/A/19 A.Y. 2007-08
1	Challenging validity of assessment	Not Pressed	Not Pressed	Not Pressed
2	Addition u/s 69 in respect of cash deposited and cheque Clearing/ transfer entries in Bank Account	17,33,313	1,30,19,817	3,17,83,256 [Protective Addition]
3	Disallowance of business expense claimed in P & L A/c.: Kasar(Discount) @ 50% Salary @ 10% Transport comm. @ 20% Vapsi Exp.(Khedut exp) Municipal Tax	1,17,622 31,768 19,114 -- -- <u>1,68,504</u>	5,10,530 2,02,518 78,922 3,77,600 7,110 <u>11,76,680</u>	11,934 <u>11,934</u>
4	Disallowance of deductions claimed under Chapter VI-A	17,228	3,298	--
5	Disallowance of Bad Debts	3,93,353	12,88,205	--
6	Disallowance of Business Loss	---	41,933	--

43. The facts and business of the assessee are identical in nature and findings given in the case of Sri. Saketkumar R Tanna will be squarely applicable to the facts of the present case except change in figures. At the outset Ld Counsel stated that **he is NOT PRESSING Ground No. 1 challenging the Jurisdiction of assessment**, recording the same **Ground No.1 is hereby dismissed.**

44. **Ground Nos. 2 to 7 relating to addition made u/s.69 in respect of cash deposit, cheque clearing in bank account** are

identical with that of the A.Y. 2013-14 in the case of Sri. Saket kumar R Tanna. Thus the detailed decision made in paragraphs 12 & 13 of this order will be applicable to Mutatis Mutandi and hence **the entire addition on this count is liable to be deleted and Ground Nos.2 to 7 filed by the assessee are hereby allowed.**

45. **Ground No.8 is disallowance of business expenses claimed in P & L Account.** This ground identical [except change in figure of Rs.1,68,504] with that of the A.Y. 2013-14 in the case of Sri. Saket kumar R Tanna. Thus the detailed **decision made in paragraph 17 of this order will be applicable to Mutatis Mutandi** and hence **the addition on this count is liable to be deleted and Ground No.8 filed by the assessee is hereby partly allowed.**

46. **Ground No.9 is disallowance of deduction claimed under Chapter VIA.** Ld Counsel stated that **he is NOT PRESSING this Ground,** recording the same **Ground No.9 is hereby dismissed.**

47. **Ground No.10 is disallowance of bad bets of Rs.3,93,353 and Rs.12,88,205** relating to the Asst. Years 2013-14 & 2014-15. This ground identical with that of the appeal in the case of Sri. Saketkumar R Tanna. Thus the detailed **decision made in paragraph 17.1 to 17.4 of this order will be applicable to Mutatis Mutandi** and hence **the addition on this count is liable to be deleted and Ground No.10 filed by the assessee is hereby allowed.**

48. **Ground No.11 is disallowance of business loss of Rs.41,933** [Applicable only for the A.Y. 2014-15]. Ld Counsel stated that the

assessee during surplus supply of agricultural produce and lesser demand in the market results in loss and sell the produce on much lesser price since perishable nature of goods. This issue is identical with that of the A.Y. 2014-15 in the case of Sri. Saket kumar R Tanna. Thus the detailed decision made in paragraphs in 36 & 36.1 of this order will be applicable to Mutatis Mutandi and **in the result this Ground No.10 is liable to be dismissed.**

49. In the result the appeals filed by the assessee in **IT[SS]A No. 331/Ahd/2019 & ITA No.975/Ahd/2019 relating to the Asst. Years 2013-14 and 2014-15 are partly allowed.**

Remaining Assessee Appeal in ITA.No.977/Ahd/2019 by Sri. Saketkumar R Tanna and Revenue Appeals in ITA Nos. 921 & 920/Ahd/2019 in the case of Smt. Ritaben Saket kumar Tanna and Smt. Indumati Rugnath Tanna are against Reopening of Assessment u/s.148 relating to the Asst. Year 2007-08.

50. The Ld AO in the reassessment proceedings held that the cash deposits of Rs.3,17,82,256/= and cheque clearing and transfer entries of Rs.52,97,389 in the bank accounts of the three assessees and their three Firms are unexplained income and added the same substantially in the hands of Sri.Saketkumar R Tanna and also protectively in the hands of Smt. Ritaben Saketkumar Tanna and Smt. Indumati Rugnath Tanna under section 69 of the Act.

50.1. Ld CIT[A] **confirmed the substantial addition** made in the hands of Sri. Saketkumar R Tanna. Hence assessee is in appeal before us.

50.2. Ld CIT[A] **deleted the protective additions** made in the hands of Smt. Ritaben Saketkumar Tanna and Smt. Indumati Rugnath Tanna. Hence Revenue is in appeal before us.

51. This **addition made u/s.69 in respect of cash deposit, cheque clearing in bank account** are identical with that of the A.Y. 2013-14 in the case of Sri. Saketkumar R Tanna. Thus the detailed decision made in paragraphs 12 & 13 of this order will be applicable to Mutatis Mutandi and hence **the entire addition on this count is liable to be deleted. Other Grounds raised by the parties are also be applicable to Mutatis Mutandi.**

52. In the result the assessee appeal in ITA.No.977/Ahd/2019 is allowed. Revenue Appeals in ITA Nos.921 & 920/Ahd/2019 are hereby dismissed.

Order pronounced in the open court on 28 .08.2024

Sd/-

Sd/-

(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER True Copy

(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

Ahmedabad : Dated 28 .08.2024

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