

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ "सी", अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, AHMEDABAD

श्री सिद्धार्थ नौटियाल, न्यायिक सदस्य एवं
श्री मकरंद वसंत महादेवकर, लेखा सदस्य के समक्ष।

BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER &
SHRI MAKARAND V. MAHADEOKAR, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos.353/Ahd/2022 & 354/Ahd/2022
निर्धारण वर्ष /Assessment Years : 2014-15 & 2015-16 respectively

Dushyantsinh Yadvendrasinh Chudasama C/o.Anil R. Shah (CA), Shreeji House, 4 th Floor B/h. M.J. Library Ahmedabad - 380 006	<u>बनाम/ v/s.</u>	The Dy.Commissioner of Income Tax Circle -1 (2) Vadodara - 390 007
स्थायी लेखा सं./PAN: ACRPC 1888 M		

(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
Assessee by :		Kinjal Shah, AR
Revenue by :		Shri Rignesh Das, Sr.DR

सुनवाई की तारीख/Date of Hearing : 12 /03/2025
घोषणा की तारीख /Date of Pronouncement: 19 /03/2025

आदेश/ORDER

PER MAKARAND V. MAHADEOKAR, AM:

Both these appeals have been filed by the assessee against the separate orders passed by the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as "CIT(A)"] dated 30/07/2022 & 20/07/2022 for the Assessment Years (AYs) 2014-15 and 2015-16 respectively. Since the assessee is same, for the sake of convenience, both appeals are disposed of by way of this common order.

Facts of the case:

2. The assessee is engaged in the business of trading in petrol, diesel, and oil under the proprietorship concern M/s Rudra Petroleum. Additionally, he is a partner in M/s.Rudra Minerals and M/s Rudra Construction. The assessments for both the Assessment Years were completed under Section 143(3) of the Income-tax Act, 1961 [hereinafter referred to as "the Act"]. Details of the assessment are tabulated below:

Particulars	A.Y. 2014-15	A.Y. 2015-16
Date of Filing Original Return	09.10.2015	13.02.2017
Returned Income (Rs.)	5,76,170/-	86,870/-
Total Additions (Rs.)	21,19,209/-	22,31,136/-
Final Assessed Income (Rs.)	27,95,380/-	23,18,010/-
Date & Section of AO's Order	21.12.2016 Passed u/s 143(3) of the Act	28.12.2017 Passed u/s 143(3) of the Act

2.1. For A.Y. 2014-15, the Assessing Officer (AO) disallowed interest payments of Rs.11,500/- made to M/s H J Associates under Section 40(a)(ia) of the Act for failure to deduct TDS. The AO further disallowed Rs.8,55,000/- of interest expenses paid to related parties due to non-deduction of TDS. The AO also made an addition of Rs.69,709/- under Section 43B of the Act for unpaid VAT liability and Rs.12,83,000/- under Section 68 as unexplained unsecured loans, citing the assessee's failure to prove the creditworthiness of the lenders. The CIT(A) upheld these disallowances, stating that the assessee had not substantiated compliance with TDS provisions, failed to justify the

non-payment of VAT before the due date, and could not establish the financial credibility of the loan creditors.

2.2. For A.Y. 2015-16, the AO added Rs.2,902/- due to an omission in declaring interest income from fixed deposits. A disallowance of Rs. 9,234/- was made under Section 40(a)(ia) for non-deduction of TDS on interest expenses related to fleet card charges and late payment. The AO also made a substantial addition of Rs. 22,19,000/- under Section 69, treating the opening balance as unexplained investment due to a lack of documentary evidence. The CIT(A) upheld all these additions, holding that the assessee had not provided sufficient proof to substantiate the source of the opening balance or to justify the non-deduction of TDS.

3. Aggrieved by the orders of CIT(A), the assessee is in appeals before us with following grounds of appeal(s):

In ITA No. 353/Ahd/2022 – A.Y. 2014-15

I. On Disallowance of u/s.40(a)(ia)

1. *Your Appellant submits that the CIT(A) has erred in upholding making disallowance of Rs.11,500/- u/s.40(a)(ia) the under Scrutiny Criteria of Limited Scrutiny as per Circular of CBDT.*
2. *The CIT(A) has erred (both in Law and in fact) confirming the disallowance u/s. 40(a)(ia) paid Rs.11,500/- to M/s. S.J. Associates as Interest. It is submitted that Sec. 40(a)(ia) does not apply on facts of the case and that M/s. S.J. Associates is assessed to Tax and has paid Income-tax on Interest Income and therefore as per provisions of Sec.40(a)(ia) and asked by various judicial authorities the amount without deduction of TDS is not liable to be disallowed.*

II. Disallowance of Interest Expenses of Rs.8,55,000/-

- a) *The CIT(A) has erred in confirming disallowance of Rs.8,55,000/- being interest paid without deduction of TDS on funds borrowed for Business in earlier years and therefore invoking Sec.40(a)(ia).*
- b) *Your Appellant submits that interest paid is on old credit accounts and no amount was borrowed in the year under Appeal and particularly payment of Interest to same parties which was not disallowed in previous Assessment Year and facts being the same, your Appellant submits that the CIT(A) has erred in confirming the disallowance of Rs.8,55,000/- which is allowable Business as expenses u/s.57 in computing Income u/s.28 of the Act.*

III. Disallowance /Addition u/s.43B of Rs.69,709/-

Your Appellant respectfully submits that sec.43B does not apply to the Facts of the case since the said amount of Rs.17,30,384/- VAT payable out of which Rs.69,709/-which has not been paid is for good & valid reasons.

Your Appellant was suffering from Cash Crunch and the balance of Rs.69,709/- is duly paid in next Finance Year. Further your Appellant had not claimed this amount of VAT as expenses and the amount was not debited to P & L A/c. and there is no loss to the Revenue.

It is therefore submitted by your Appellant that the amount Disallowance u/s.43B of Rs. 69,709/- be delete.

IV. Unexplained Unsecured Loans u/s.68 of Rs. 12,83,000/-

1. (a) *Your Appellant submits that the CIT(A) has erred both in Law and in Fact in upholding the addition of Rs.12,83,000/- made by the Assessing Officer u/s.68 , of the Act. which does not apply as per provisions of Law and since the said amount was credited in Bank Passbook and not in Books of Accounts therefore Sec. 68 does not apply as held by various Authorities.*

(b) Without prejudice the correct amount if liable u/s.68 is Rs.10,73,000/-. Since in the account of Depositor Shri Y.M. Chudasma there was an Opening Balance of Rs.2,10,000/- to which sec.68 does not apply.

2. *Your Appellant submits that he is engaged in business of trading in petrol, diesel, oil etc. where the Appellant receive cash as Business Sales as per normal trade practice of similar business community.*

The nature and character of credit is not like Cash Credit or deposit received from People but it is sort of trade and business receipt to which Sec.68 does not apply.

3. *Your Appellant also submits that by nature of business is such that he is having large cash on hand as well as he had cash on hand of Rs.58,43,000/- added as cash credit in Asst. Year 2013-14 which was opening cash for the year under Appeal and hence duly available for crediting in books of accounts & hence Rs.12,83,000/- is required to be deducted.*
4. *Without prejudice and in the alternative the amount of alleged Cash Credit of Rs. 12,83,000/- (correct sum is Rs.10,73,000/-) is Business Receipt of your Appellant and only Net Profit of Business derived out of Sale of Petrol, Diesel, Kerosene etc. which are usually sold in Cash as per accepted Trade practice can be added as held by various Authorities and binding judgement of Hon. Guj. High Court.*

In ITA No. 354/Ahd/2022 – A.Y. 2015-16

On Legality of the Order

1. *The CIT(A) has erred both in Law and in fact in upholding order of Assessing Officer which was passed in great hest & hurry without application of mind and without giving proper and sufficient opportunity to the Appellant to present his case and evidence before him.*
2. *The Assessing Officer failed to issue a Show Cause Notice of his intention of making huge Addition of Rs.22,19,000/- and your Appellant on specific showing proof & support of funds to the Assessing Officer he gave to understand that he has accepted your Appellants claim of his having Rs.22,19,000/-as opening cash as per his Books of Accounts.*
3. (a) *The Assessing Officer has erred in making addition of Rs.22,19,000/-as alleged unexplained Investment without referring to any relevant provision of Act.*

(b) *The CIT(A) has erred in invoking sec.69 and confirming the said Addition which does not apply to the facts of the case since it was opening Cash Balance duly supported by Books of Accounts.*
4. *The Assessing Officer also grossly failed to appreciate & consider detailed submissions made by your Appellant on 28/12/2017 and for unjustifiable reason he passed the Assessment Order also on 28/12/2017, which was not getting time barred doing great injustice to your Appellant and acting against principles of Natural Justice.*

On Merits

1. *Your Appellant submits that on CIT(A) has erred in applying provisions of Sec. 69 which does not apply to the case since your Appellant had the amount as per Books of Accounts supporting the Opening cash Balance of Rs.22,19,000/-.*

2. *Your Appellant also submits that the amount earned or received and brought to Books in earlier year does not relate to the year of Appeal and as per provisions of Law the Addition is not liable to be added in the year under consideration it being Opening Balance.*

It is therefore submitted that the relief claimed be allowed and order of the Assessing Officer be notified accordingly your Appellant reasons right to add, amend to or any Grounds of Appeal.

4. Now, first we deal with the ITA No. 353/Ahd/2022 for the A.Y. 2014-15.

Ground No.1 relating to disallowance u/s 40(a)(ia) amounting to Rs.11,500/-.

4.1. During the course of proceedings before us, the Authorized Representative (AR) of the assessee submitted that the assessee had paid interest of Rs.11,500/- on an unsecured loan, which was squared off at the end of the year. The AR further contended that the recipient, M/s/ H J Associates, is a partnership firm assessed to tax and has duly included the said interest income in its return of income while also paying taxes thereon. It was argued that as per the provisions of Section 201(1) of the Act, when the recipient of income has paid tax on such income, the assessee cannot be treated as an assessee in default, and consequently, disallowance under Section 40(a)(ia) of the Act should not be sustained. The AR also submitted that the assessee is willing to furnish a Chartered Accountant's certificate in Form 26A to confirm that the interest income has been offered to tax by the recipient. The Departmental Representative (DR) did not object to the matter being remanded to the AO for verification.

4.2. In view of the above, the matter is restored to the AO for verification of Form 26A as per the provisions of Section 201(1) of the Act. If the assessee furnishes a valid Form 26A demonstrating that M/s H J Associates has paid tax on the interest received, the AO shall delete the disallowance made under Section 40(a)(ia) of the Act. **Accordingly, this ground is allowed for statistical purposes.**

Ground No.2 relating to Disallowance of interest Expenses amounting to Rs. 8,55,000/-.

5. During the course of hearing before us the AR stated that the assessee claimed interest expenses of Rs.8,55,000/- paid to various individuals on unsecured loans. The AO disallowed the entire amount under Section 40(a)(ia) of the Act on the ground that the assessee failed to deduct TDS on these payments, as required under Section 194A of the Act. The details of such amounts are:

Name of Lender(s)	Interest Paid (Rs.)
Smt. Anshyaba B. Chudasama	1,08,700/-
Smt. Yashomatiba B. Chudasama	1,04,200/-
Smt. Manharba B. Chudasama	1,33,500/-
Sri Mahendra Sinh B. Chudasama	1,34,600/-
Dharmendrakuverba B. Chudasama	1,85,200/-
Y M Chudasama (HUF)	1,88,800/-
Total Disallowed u/s 40(a)(ia)	8,55,000/-

5.1. The AR contended that all the lenders are agriculturalist having agricultural income and their other income is below taxable limit. During the course of proceedings before the CIT(A), the assessee furnished certificates in form 26A, however, the CIT(A) upheld the disallowance u/s 40(a)(ia) of the

Act. The AR also explained that the amounts were borrowed for the purpose of business and the amounts were invested in the partnership firms where the assessee is a partner. The AR also stated that the assessee has received interest and remuneration from the firms and the same is disclosed in the return of income of the assessee. The AR placed reliance on the decision of Co-ordinate Bench in case of Esaote India (NS) Ltd. (ITA No.55/Ahd/2016) where it was decided that where recipient/ deductee has already paid tax on impugned amount of interest under section 194A received from assessee by filing return of income, such interest could not be disallowed in the hands of assessee u/s 40(a)(ia) of the Act.

6. The DR contended that the interest is not paid and only credited to the account of parties from whom the amounts have been borrowed. The DR further stated that if the amounts are not paid the party is not required to disclose in respective returns of income and therefore form 26A need to be verified.

7. We noted that in the computation of income, a deduction of Rs.8,55,000/- was initially claimed under Section 57 of the Act, with the assessee stating that the interest was paid in a personal capacity. However, during the course of assessment proceedings, it was later submitted that the interest had been paid for business purposes. This change in stance was not accepted by the AO, who observed that if the interest was genuinely a business expense, it ought to have been claimed under Section 36(1)(iii) of the Act rather than under Section 57 of the Act. The AO also noted that Form 15G/15H, which could have exempted the assessee from TDS deduction, had not been furnished. Further, since no TDS had been deducted on these

payments as required under Section 194A of the Act, disallowance under Section 40(a)(ia) of the Act was held to be mandatory. The argument that similar interest payments had been allowed in earlier years was also not accepted, as each assessment year is to be considered independently. In view of the above, the interest expenses were disallowed, and an addition of Rs.8,55,000/- was made to the total income.

7.1. In light of the above, it is observed that the assessee furnished Form 26A certificates before the CIT(A), which were not available before the AO at the time of assessment. The AR has contended that all the lenders are agriculturists with agricultural income and other income below the taxable limit. It has also been submitted that the amounts were borrowed for business purposes and invested in partnership firms where the assessee is a partner, and that the interest and remuneration received from these firms have been duly disclosed in the assessee's return of income. The AR further placed reliance on the decision of the Co-ordinate Bench in the case of **Esaote India (NS) Ltd. (ITA No.55/Ahd/2016)**, wherein it was held that if the recipient of interest has already included the amount in its return and paid tax thereon, disallowance under Section 40(a)(ia) of the Act is not warranted in the hands of the assessee.

7.2. On the other hand, the DR contended that the interest was only credited to the accounts of the lenders and not actually paid. It was further argued that if the interest amount was merely credited and not paid, the recipient was not required to disclose the same in its return, and therefore, the validity of Form 26A needed to be verified. We note that Form 26A considers both "paid" and "credited" amounts as per its Annexure A, and the

filing of a return of income by the recipient is crucial to avail the benefit of this provision.

7.3. Considering the above, and in the interest of justice, we deem it appropriate to restore the matter to the file of the AO for the limited purpose of verifying the validity and correctness of Form 26A and to examine whether the recipients have duly filed their returns of income, disclosing the interest income and paying tax thereon as per the provisions of Section 201(1) of the Act. The AO is directed to carry out the necessary verification and decide the issue in accordance with law. If it is found that the conditions laid down in Section 201(1) of the Act are satisfied, the disallowance under Section 40(a)(ia) of the Act shall be deleted. **Accordingly, this ground is allowed for statistical purposes.**

Ground No.3 relating to addition of Rs.69,709/- u/s 43B of the Act.

8. During the assessment proceedings, the AO observed that the assessee had an outstanding VAT liability of Rs.17,30,384/- at the end of the financial year. Upon verification, it was found that an amount of Rs.69,709/- remained unpaid beyond the due date of filing the return under Section 139(1) of the Act. Since Section 43B of the Act mandates the disallowance of unpaid statutory liabilities unless they are paid before the due date of filing the return, the AO disallowed the unpaid amount. The assessee contended that the unpaid VAT liability of Rs.69,709/- arose due to shortage of funds and was subsequently paid in the next financial year. It was also argued that Section 43B of the Act applies only to amounts claimed as deductions in the

profit and loss account, and since this VAT amount was not debited to the P&L account, it should not be disallowed.

8.1. The AO rejected this contention, holding that the unpaid amount was outstanding as of the balance sheet date and was not cleared before the return filing due date, the disallowance under Section 43B of the Act was considered justified. Before the CIT(A), the assessee reiterated that the unpaid VAT amount was not claimed as an expense and, therefore, should not be disallowed. It was also submitted that the delay in payment was due to cash constraints, and since the amount was eventually paid in the subsequent financial year, the disallowance was unwarranted. The CIT(A), however, upheld the disallowance, noting that Section 43B of the Act applies to all statutory dues, whether claimed in the P&L account or not.

9. Before us, the AR contended that the VAT is not routed through profit and loss account and the same is shown under current liabilities. The AR placed reliance on the decision of Co-ordinate Bench in case of **SDCE Projects Pvt. Ltd. in ITA No. 2556/Ahd/2017**, where it was held that no disallowance be made u/s. 43B of the Act, when no deduction is claimed in the profit and loss account and liability of service tax is disclosed as current liability. The AR also contended that the VAT payable was reversed in subsequent year as after re-examination of books of accounts it came to the notice of the assessee that there was excess provision of VAT liability.

9.1. In light of the above, it is observed that the assessee contended that the VAT liability was not routed through the profit and loss account and was instead reflected as a current liability. The assessee also argued that the VAT

payable was reversed in the subsequent year due to the discovery of an excess provision upon re-examination of the books of accounts. The Co-ordinate Bench of the Tribunal in the case of **SDCE Projects Pvt. Ltd. (ITA No. 2556/Ahd/2017)** has held that no disallowance (relating to service tax) under Section 43B of the Act can be made when no deduction is claimed in the profit and loss account, and the liability is disclosed as a current liability. While deciding so the Bench relied on the decision of **Noble & Hewitt (I) (P) Ltd. (305 ITR 324) (Del.)**, wherein it was held that if the liability is not debited to the profit and loss account and no deduction is claimed, the provisions of Section 43B of the Act are not applicable.

9.2. Considering the submissions made and the decision of Co-ordinate Bench in case of **SDCE Projects Pvt. Ltd.(supra)**, particularly the observations in paragraph numbers 6.11, 6.12, and 6.13, we deem it appropriate to restore this issue to the file of the AO for verification. The AO is directed to examine whether the VAT liability was indeed reversed in the subsequent year and whether it was ever claimed as a deduction in the profit and loss account. Further, the AO shall verify to which account the VAT liability has been reversed and whether it has impacted the taxable income of the assessee. The AO shall decide the issue after considering the ratio laid down by the Co-ordinate Bench in the case of **SDCE Projects Pvt. Ltd. (supra)** and the decision in the case of **Noble & Hewitt (I) (P) Ltd. (supra)**. If it is found that the liability was merely carried forward as a current liability without being claimed as an expense, the disallowance under Section 43B of the Act shall be deleted. **Accordingly, this ground is allowed for statistical purposes.**

Ground No.4 relating to addition of unsecured loan amounting to Rs.12,83,000/- u/s 68 of the Act.

10. During the course of assessment proceedings, the AO observed that the assessee failed to establish the creditworthiness of the lenders and the genuineness of following loan transactions:

Name of Lender(s)	Opening Balance (Rs.)	Loan Taken During the Year (Rs.)	Loan Repaid During the Year (Rs.)	Closing Balance (Rs.)
Sri D C Dave	-	5,39,000/-	67,000/-	4,72,000/-
Sri Y M Chudasama	2,10,000/-	7,76,000/-	1,75,000/-	8,11,000/-
Total	2,10,000/-	13,15,000/-	2,42,000/-	12,83,000/-

10.1. The assessee submitted PAN details of the lenders but failed to provide supporting documentary evidence such as bank statements, source of funds, and financial statements to establish the creditworthiness of the lenders. The AO observed that Sri Y M Chudasama had a declared income of only Rs.2,42,150/-, which was insufficient to justify an interest-free loan of Rs.8,11,000/-. The AO further noted that no interest was paid on these loans, raising doubts about the commercial nature of the transactions. Relying on Section 68 of the Act, the AO held that the identity of the lenders was established, but their creditworthiness and the genuineness of transactions were not proved. Accordingly, the entire amount of Rs.12,83,000/- was added to the total income as unexplained cash credit. The CIT(A) upheld the AO's addition of Rs.12,83,000/- under Section 68, observing that the assessee failed to establish the creditworthiness of the lenders.

11. During the course of hearing before us, the AR submitted that both the loans have been accepted through banking channel and the assessee has submitted PAN, ITR (only in case of Y.M. Chudasama), confirmations and Bank statement in support of credit worthiness and therefore the assessee has discharged his initial burden of proof and therefore the addition should not have been made by AO and confirmed by the CIT(A). The AR also submitted that the loans have been repaid in part in the current year and in case of Shri Y. M. Chudasama even opening balance was also added u/s 68 of the Act. The AR relied on the judgement of Hon'ble High Court of Gujarat in the case of **CIT Vs. Apex Therm Packaging (P.) Ltd. reported at [2014] 42 taxmann.com 473**, where the revenue's appeal was dismissed. The Hon'ble High Court confirmed the decision of Tribunal that when full particulars, inclusive of confirmations with name, address and PAN, copy of Income Tax Returns, etc. were furnished and when the loans were received through cheques, AO was not justified in making additions u/s 68 of the Act.

11.1. In light of the above, it is observed that the assessee has furnished PAN, Income Tax Returns (in the case of Y. M. Chudasama), confirmations, and bank statements in support of the creditworthiness of the lenders. The assessee has also contended that both loans were received through banking channels and that partial repayments were made during the year. Further, it has been submitted that in the case of Y. M. Chudasama, even the opening balance was added under Section 68 of the Act, which is not justified. The AR has placed reliance on the decision of the Hon'ble Gujarat High Court in the case of **CIT Vs. Apex Therm Packaging (P.) Ltd. [2014] 42 taxmann.com 473**, wherein it was held that when full particulars, including confirmations with

names, addresses, PAN, and copies of Income Tax Returns, were furnished, and when the loans were received through cheques, the AO was not justified in making additions under Section 68 of the Act.

11.2. Considering the submissions and the judicial pronouncement relied upon by the AR, we deem it appropriate to restore the matter to the file of the Assessing Officer for fresh verification. The AO is directed to verify whether the loans in question were repaid in part or full and to reconsider the addition made under Section 68 of the Act, after examining the genuineness of transactions and the creditworthiness of the lenders in light of the ratio laid down by the Hon'ble Gujarat High Court in the case of **CIT Vs. Apex Therm Packaging (P.) Ltd.(supra)**. If, upon verification, it is found that the assessee has satisfactorily discharged the initial burden of proof and that the loans were genuine, the addition under Section 68 of the Act shall be deleted. The AO shall decide the matter afresh in accordance with the law. **Accordingly, this ground is allowed for statistical purposes.**

Now, we deal with the second appeal in ITA No.354/Ahd/2022 for AY 2015-16.

12. Under this appeal, the AR explained the facts. According to which the AO made an addition of Rs.22,19,000/- under Section 69 of the Act, treating the opening cash balance as unexplained investment, citing the assessee's failure to substantiate the source of funds.

12.1. The AR contended that opening balances cannot be taxed in the current year, as they pertain to earlier years and were generated from past business

activities and withdrawals. It was further argued that the cash balance was available from previously declared income and cash flows, and therefore, Section 69 of the Act should not be invoked. Before the CIT(A), the assessee reiterated that an opening balance does not constitute an income of the current year and that such an addition under Section 69 of the Act was unjustified. However, the CIT(A) upheld the AO's decision, observing that the assessee had failed to provide credible evidence to establish the source of the opening balance. Consequently, the addition of Rs.22,19,000/- was confirmed, and the assessee's appeal on this ground was dismissed.

13. During the course of hearing before us, the AR contended that the opening cash balance of Rs.22,19,000/- was duly reflected in the personal balance sheet as on 31-03-2014, which was certified by a Chartered Accountant. The AR submitted that the certified copy of the balance sheet, forming part of the paper-book (page No. 34), clearly demonstrated the availability of cash at the beginning of the financial year. It was argued that since the cash balance was carried forward from the earlier year, it could not be treated as unexplained under Section 69 of the Act in the current assessment year. The AR further submitted that the balance-sheet had been prepared based on the assessee's books of accounts, and if required, the complete cash book could be produced before the AO for verification.

14. We noted that the AO computed the unexplained opening balance of Rs.22,19,000/- based on the cash flow analysis for the relevant assessment year. The following tabulated cash flow statement to reconcile the cash transactions was submitted by the assessee before AO:

Details of Source of Cash Received:	Amount (Rs.)
Particulars	
Cash Withdrawals from Banks	33,64,000/-
Withdrawals from Rudra Petroleum	54,50,000/-
Withdrawals from Rudra Construction	65,000/-
Withdrawals from Rudra Minerals	20,19,000/-
Gift Received from Father	63,85,000/-
Agricultural Income	2,10,000/-
Opening Balance (as per Assessee)	22,19,000/-
Total Cash Available	1,97,12,000/-
Details of Investment Made in Cash:	
Cash Deposits in Bank (Bank of India)	1,44,000/-
Capital Invested in Rudra Petroleum	1,22,69,000/-
Capital Invested in Rudra Minerals	32,50,000/-
Total Cash Utilized	1,56,63,000/-

14.1. The AO observed that while the assessee claimed an opening balance of Rs.22,19,000/-, no credible supporting evidence was provided to substantiate its source. It was further noted that the assessee did not maintain personal books of accounts to justify the cash flow, and no documentary evidence was submitted to support the availability of cash on hand. The AO also pointed out that in May-2014, the assessee introduced an amount of Rs.36,84,000/-, while the cash in hand at that time was only Rs.14,65,000/-, leading to doubts about the genuineness of the claimed cash balance.

14.2. In light of the above, we find that the assessee has relied on the certified personal balance sheet as on 31-03-2014, which reflects the opening cash

balance of Rs.22,19,000/-. The assessee has contended that this balance was duly carried forward from the preceding year and does not represent any fresh credit during the year under consideration. The availability of cash at the beginning of the financial year, as per the certified balance sheet, needs to be duly verified to determine whether the addition under Section 69 of the Act is justified. Further, the assessee has expressed willingness to produce the complete cash book for verification, which was not considered by the lower authorities.

14.3. Considering the submissions made and in the interest of justice, we deem it appropriate to restore the matter to the file of the AO for fresh verification. The AO is directed to examine the certified balance sheet and other supporting documents, including the cash book, to verify the genuineness of the opening cash balance. If it is found that the cash balance was genuinely carried forward from earlier years and is duly reflected in the books of accounts, the addition under Section 69 of the Act shall be deleted. The AO shall decide the issue afresh after giving the assessee a reasonable opportunity of being heard. **Accordingly, this ground is allowed for statistical purposes.**

14.4. Accordingly, both the appeals are restored to the file of AO for necessary verification and fresh adjudication in accordance with the law, and are thus allowed for statistical purposes.

15. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the Open Court on 19th March, 2025 at Ahmedabad.

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

Sd/-
(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER

अहमदाबाद/Ahmedabad, दिनांक/Dated 19/03/2025

टी.सी.नायर, व.नि.स./T.C. NAIR, Sr. PS

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)-(NFAC), Delhi
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , राजकोट/DR, ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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