

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE SHRIPAWAN SINGH, JUDICIAL MEMBER AND  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

**आयकरअपीलसं./ITA No.992/SRT/2024**

**Assessment Year: (2016-17)**

**(Physical Hearing)**

Mansukhbhai Babubhai Dhaduk 16, Dharmajivan society, Opp. New Chopati, Varachha Road, Surat. 395006	<b>Vs.</b>	The ITO, Ward-3(3)(3), Surat
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No: ABZPD0899G</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Appellant by</b>	Shri Sapnesh Sheth, CA
<b>Respondent by</b>	ShriMukesh Jain, Sr. DR.
<b>Date of Hearing</b>	11/03/2025
<b>Date of Pronouncement</b>	13/05/2025

**आदेश / ORDER**

**PER BIJAYANANDA PRUSETH, AM:**

This appeal by the appellant emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') dated 05.09.2024 by the learned Commissioner of Income-tax(Appeal), Mumbai [in short, 'CIT(A)'], for the Assessment Year (AY) 2016-17.

2. The grounds of appeal raised by the assessee are as under:

*"1. Whether on the facts and circumstances and in law, The Learned Commissioner of Income Tax (Appeals), NFAC has erred in confirming the action of assessing officer in making addition of Rs.21,75,000/- as unexplained investment u/s 69 of the I.T. Act, 1961.*

*2. Whether on the facts and circumstances and in law, the learned CIT(A), NFAC has erred in confirming the action of assessing officer in invoking*

*provisions of section 115BBE of the Act and thereby taxing the unexplained investment amounting to Rs.21,75,000/- at 30 percentage.*

*3. It is therefore prayed that above addition made by assessing officer and confirmed by commissioner of Income tax (Appeals) may please be deleted.*

*4. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal.*

3. The facts of the case in brief are that assessee filed return of income on 21.03.2017, declaring total income of Rs.3,80,000/-. The case was selected for limited scrutiny under CASS on the issue of "Whether investment and income relating to properties are duly disclosed". The Assessing Officer (in short, 'AO') observed that the appellant had purchased immovable property being agricultural land for document value of Rs.4,55,10,150/-. The appellant had paid Rs.24,10,758/-. The AO asked assessee to explain the source of investment. In response to which, appellant stated that it had taken loans of Rs.21,75,000/- from his brother and 4relatives. The AO did not accept reply of the assessee because creditworthiness of the lenders was doubtful due to their low returned incomes and deposit of cash of equivalent amount before giving loans to the appellant. He, therefore, added Rs.21,75,000/- u/s 69 of the Act and the total income was determined at Rs.25,55,190/-.

4. Aggrieved by the order of AO, the assessee filed appeal before CIT(A). The appellant submitted that 4 loans were repaid in the subsequent years and hence, no addition can be made on the repaid loans. He relied on the decisions in cases of PCIT vs. Ambe Tradecrop Pvt. Ltd., 145 taxmann.com 27 (Guj.), Hidustan Tea Trading Co. Ltd., 263 ITR 289 (Cal.), PCIT (Cen) vs. Ganesh

Plantation Ltd., 134 taxmann.com 149 (Guj.). The CIT(A) did not accept the contention of the assessee and held that AO was justified in making the addition u/s 68 of the Act because the persons were of small means and cash deposits were made, which in turn were given as loans to the assessee. The CIT(A) has accordingly upheld the addition made by AO.

5. Aggrieved by the order of CIT(A), the assessee filed appeal before the Tribunal. The learned Authorized Representative (Id. AR) of the assessee filed a paper book containing 54 pages including written submissions before the AO and CIT(A), confirmation of accounts, ITR and bank statements of the lenders and bank statement of assessee reflecting repayment of loans. He filed another compilation of case laws in favour of the assessee. He submitted that all loans except from Shri Vinubhai Babubhai Dhaduk (Rs.10,00,000/-) were repaid in the subsequent year. Shri Vinubhai Dhaduk is the real brother of the appellant. These details were submitted to the CIT(A) by the appellant on 24.12.2018, which has not been considered. He further submitted that the lenders are filing returns of income for several years and the small cash deposits would not prejudice cause of the appellant. He has relied on the decisions in cases of CIT vs. Ayachi Chandrashekar Narsangji, 42 taxmann.com 251 (Guj.), PCIT vs. Ojas Tarmake (P.) Ltd., 156 taxmann.com 75 (Guj.), Ambe Tradecrop Pvt. Ltd. (supra) and CIT vs. Ranchod Jivabhai Nakhava, 21 taxmann.com 159 (Guj.).

6. On the other hand, learned Senior Departmental Representative (Id. Sr. DR) for the revenue relied on the orders of the lower authorities. He submitted that in all cases cash was deposited before issue of cheques. He therefore submitted that the order of CIT(A) may be upheld.

7. We have heard both the parties and perused the material available on record. We have also deliberated on the decisions relied upon by both sides. There is no dispute that the appellant has taken unsecured loan of Rs.21,75,000/- from five persons, who are brother and relatives of the appellant. The Id. AR submitted that all details were given to the AO and CIT(A) regarding the lenders. He further submitted that loans of four parties except his brother were repaid in the subsequent year. However, such explanation and details were not considered by the CIT(A). The appellant has also relied on the decisions of the Hon'ble jurisdictional High Court in case of Ambe Tradecrop Pvt. Ltd. (supra), Ayachi Chandrasekhar Narsangji (supra) and Ranchod Jivabhai Nakhava (supra). It was held by the Hon'ble Gujarat High Court that where the Department has accepted the repayment of loan in subsequent year, no addition was to be made in the current year on account of cash credit. We find that the CIT(A) has also not forwarded the additional evidence filed before him to the AO for verification and remand report. Considering all these facts and the binding precedent, we set aside the order of CIT(A) and restore the matter to the file of AO for fresh adjudication after affording adequate and reasonable opportunity of hearing to the assessee. The

assessee is directed to furnish all the details submitted before the Tribunal and to submit further details, as may be required by the AO. The grounds of appeal are allowed for statistical purposes.

8. In the result, appeal of the assessee is allowed for statistical purpose.

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 13/05/2025.

**Sd/-**  
**(PAWAN SINGH)**  
**JUDICIAL MEMBER**

Surat

दिनांक/ Date: 13/05/2025

SAMANTA

**Copy of the Order forwarded to**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, Surat
6. Guard File

**Sd/-**  
**(BIJAYANANDA PRUSETH)**  
**ACCOUNTANT MEMBER**

By Order

**// TRUE COPY //**

Assistant Registrar/Sr. PS/PS  
ITAT, Surat