

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE SHRI TR SENTHIL KUMAR, JUDICIAL MEMBER &  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

**आयकर अपील सं./ITA No.110/SRT/2025**

**Assessment Year: (2012-13)**

**(Hybrid hearing)**

Mukeshbhai Kishorbhai Lakhani 201, Patel Mansion 20 Sadhana Society, Opp. Jain D, Lambe Hanuman Road, Varacha Matawadi, Surat-395 006	<b>Vs.</b>	Income Tax Officer Ward No.3(3)(3), Surat, Ayakar Bhawan, Majura Gate Nr. New Civil Hospital, Surat-395 001
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No: ABPPL 9388 Q</b>		
<b>(अपीलार्थी/Appellant)</b>		<b>(प्रत्यर्थी/Respondent)</b>

निर्धारिती की ओर से /Appellant by	Shri P.M. Jagasheth, CA
राजस्व की ओर से /Respondent by	Ms. Neerja Sharma, Sr-DR
अपील पंजीकरण/Appeal instituted on	28/01/2025
सुनवाई की तारीख/Date of Hearing	05/05/2025
उद्घोषणा की तारीख/Date of Pronouncement	19/06/2025

**आदेश / ORDER**

**PER BIJAYANANDA PRUSETH, AM:**

This appeal by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') dated 21.11.2024 by the Commissioner of Income-tax (Appeal)/Addl/JCIT(A)-4, Chennai [in short 'Ld. CIT(A)'] for the Assessment Year (AY) 2012-13, which in turn arises out of assessment order passed by Assessing Officer (in short, 'AO') u/s 143(3) r.w.s. 147 of the Act dated 31.08.2017. Grounds of appeal raised by the assessee are as under:

*“1. On the facts and in the circumstances of the case as well as law on the subject, the learned Commissioner of Income Tax (Appeals) has erred in confirming the action of the Assessing Officer in re-opening the assessment u/s 147 of the Act and issuing notice u/s 148 of the Income Tax Act.*

*2. On the facts and in the circumstances of the case as well as law on the subject, the learned Commissioner of the Income Tax (Appeals) has erred in confirming addition of Rs.2,51,574/- on account of alleged 30% of total credits treated business income.*

*3. It is therefore prayed that the above penalty may please be deleted as learned Members of the Tribunal may deem it proper.*

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

2. The present appeal is barred by 8 days in filing appeal before Tribunal. The assessee has filed affidavit stating that he was unaware of online income-tax proceedings. He filed the appeal immediately after knowing the order of CIT(A). The delay was neither intentional nor deliberate. Considering the request of the assessee, the delay is condoned and the appeal is admitted.

3. Facts of the case in brief are that during the scrutiny proceedings for AY 2013-14, it was found that assessee had maintained an undisclosed bank account No.05331530007430 with HDFC Bank. There was total cash deposit/credit entries of Rs.8,38,580/- for the subject assessment year, 2012-13. Accordingly, the case was reopened and notice u/s 148 was issued on 30.03.2017. AO issued five notices but there was no compliance to the first four notices and only return of income, balance sheet, profit and loss account

and capital account were submitted on the last date of hearing on 28.06.2017. The AO issued show cause notice requesting assessee as to why Rs.8,38,580/- should not be added u/s 69 of the Act. Since no reply was given, AO has added the above amount and determined total income at Rs.12,34,820/-. Aggrieved by the addition made by AO, assessee preferred appeal before CIT(A).

4. The assessee contested validity of reopening as well as merits of the addition. The CIT(A) dismissed the ground on validity of reopening by observing that the appellant had not sought the reasons for reopening during assessment proceedings. The said request was made after a lapse of five years after the assessment order was passed. The appellant should have asked for the reasons at the time of assessment proceedings. Further, AO himself mentioned that reasons have been duly recorded and served upon the assessee. As the above facts were not contested, the ground was rejected. Regarding the merits of the addition, the CIT(A) observed that the appellant had not disclosed the HDFC Bank account in his books of account. There were both debit and credit entries. Hence, he estimated the income @ 30% of total credits of Rs.8,35,580/- *i.e.*, Rs.2,51,574/- as against request of assessee to add only 5% of the credits. The ground was partly allowed.

5. Further aggrieved by the order of CIT(A), the assessee has filed present appeal before the Tribunal. The Ld. AR relied on the grounds of appeal and statement of facts. He has also filed paper book containing various case laws. He submitted that the reopening was not valid. He also submitted that the addition on account of cash deposit/credits in the undisclosed bank account may be estimated @ 5% of the total credit of Rs.8,35,580/-.

6. On the other hand, Sr-DR for the revenue supported the order of Ld.CIT(A).

7. We have heard both the parties and perused the materials on record. As regards validity of reopening, the Ld. AR has repeated the submission made during the appellate proceedings before CIT(A). He has not made any additional arguments as to why the findings of the CIT(A) is not correct. We do not find any infirmity in the reasoning of the CIT(A) in dismissing the ground. Hence, this ground No.1 is dismissed.

8. Next ground No.2 pertains to estimation income at 30% of the unexplained cash deposits/credits entries of Rs.8,38,580/- in the HDFC Bank account of assessee. The AO has added the entire deposit, which was restricted to 30% by the CIT(A). During the hearing, it was submitted by both counsel that a reasonable estimate may be made by the Tribunal. After considering the totality of the facts, we are of the considered view that 20% of the total cash deposits/credits in the impugned bank account would meet the

ends of justice. Hence, the AO is directed to add Rs.1,67,716/-(i.e., 20% Rs.8,38,580/-). The ground is partly allowed.

9. In the result, appeal of the assessee is party allowed.

Order pronounced under proviso to Rule 34 of the ITAT Rules, 1963 on 19/06/2025 in the open court.

**Sd/-**  
**(TR SENTHIL KUMAR)**  
न्यायिक सदस्य/JUDICIAL MEMBER  
सूरत /Surat  
दिनांक/ Date: 19/06/2025  
Dkp Outsourcing Sr.P.S\*

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

आदेश की प्रतिलिपि अद्योषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त (अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, सूरत/ DR, ITAT, SURAT
- गार्ड फाईल/ Guard File

By order/आदेश से,

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सहायक पंजीकार  
आयकर अपीलीय अधिकरण, सूरत