

**IN THE INCOME TAX APPELLATE TRIBUNAL SURAT BENCH, SURAT
(HYBRID HEARING)**

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

I.T.A. No. 184/SRT/2025
(Assessment Year: 2017-18)

Vama Infra, Ground Floor Veronaa Residency Harikrishna Campus Vraj Chowk Surat-395001	Vs.	Assistant Commissioner of Income Tax, Circle-3(3), Surat
[PAN No.AAKFV3593K]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Sapnesh Sheth, CA
Respondent by:	Shri Ajay Uke, Sr. DR

Date of Hearing	09.07.2025
Date of Pronouncement	18.07.2025

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short “Ld. CIT(A)”), ADDL/JCIT(A), Mysore vide order dated 18.12.2024 passed for A.Y. 2017-18.

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

“1. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income Tax (Appeals) has erred in not appreciating the additional evidences filed during appellate proceedings.

2. On the facts and 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 assessing officer in making addition of Rs. 10,75,933/- as unexplained credit u/s 68 of the I.T. Act although the loans were not even borrowed during the year under consideration.

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3. *On the facts and 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 assessing officer in making addition of Rs. 3,00,197/- as unexplained expenses u/s 69C of the I.T. Act.*

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

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

3. The brief facts of the case are that during the course of assessment proceedings, the Assessing Officer observed that the assessee had taken unsecured loans of Rs. 10,75,933/-. These unsecured loans were taken from Shri Bharatbhai V. Gedia (Rs. 75,933/-) and from M/s. Rise On Group (Rs. 10,00,000/-), totaling to Rs. 10,75,933/-. The assessee was asked to provide details of these unsecured loans alongwith supporting evidences. However, despite issuance of several notices of hearing, since the assessee did not furnish the necessary supporting documentation and no reply was received from the assessee, the Assessing Officer proceeded to pass ex-parte order, making an addition of Rs. 10,75,933/- as unexplained credits in the books of the assessee under Section 68 of the Act. Further, the Assessing Officer also disallowed 5% of total expenses (60,03,932/-) on the ground that genuineness of the said expenses was doubtful and accordingly made addition of Rs. 3,00,197/- in the hands of the assessee under Section 69 of the Act.

4. In appeal, Ld. CIT(A) dismissed the appeal of the assessee and confirmed the additions in the hands of the assessee.

5. Before us, the Counsel for the assessee submitted that the order has been passed by Ld. CIT(A) in violation of principle of natural justice. The Counsel for the assessee drew our attention to written submissions filed before Ld. CIT(A), in which a specific request was made for admission of additional evidence. However, this request for submission of additional evidence was denied to the assessee on the ground that the assessee did not submit the documents as per the Rules prescribed in Rule 46A of the Income Tax Rules. Further, the Counsel for the assessee submitted that the assessee had also made a specific request for remanding his submissions to the Assessing Officer for his comments, but again Ld. CIT(A) refused to call for a remand report from the Assessing Officer in respect of additional evidence sought to be submitted by the assessee, in support of its case. The Counsel for the assessee submitted that Ld. CIT(A) failed to appreciate the basic fact regarding the case of the assessee that the unsecured loans in question had not been taken by the assessee during the impugned year under consideration, but such loans had been taken by the assessee in previous assessment years. Therefore, there is no question of invoking the provisions of Section 68 of the Act, looking into the assessee's set of facts. The assessee wanted to place on record necessary documentation and supporting evidences to show that these unsecured loans were not taken by the assessee during the impugned year under consideration, but this opportunity was denied to the assessee by Ld. CIT(A). Further, with regard to addition of Rs. 3,00,197/- the assessee submitted that this was on account of ad-hoc disallowance @ 5% of total expenses of Rs. 60,03,932/- and there was no basis to confirm such ad-hoc

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disallowance in the hands of the assessee, without pointing out to any infirmity in the books of accounts of the assessee which were duly audited. Accordingly, the Counsel for the assessee submitted that this is not a fit case for confirming any addition in the hands of the assessee, looking into the assessee's particular set of facts.

6. On going through the facts of the assessee's case, we are of the considered view that Ld. CIT(A) did not offer adequate opportunity of hearing to the assessee to present its case on merits. Accordingly, in the interest of justice, the matter is hereby restored to the file of Ld. CIT(A) for de-novo consideration, after allowing opportunity to the assessee to place on record supporting evidences in support of its case.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced under proviso to Rule 34 of ITAT Rules, 1963 on 18/07/2025

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Ahmedabad; Dated 18/07/2025

TANMAY, Sr. PS

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आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, सूरत / DR, ITAT, Surat
6. गार्ड फाईल / Guard file.

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, सूरत/ ITAT, Surat