

आयकर अपीलिय अधिकरण, राजकोट न्यायपीठ, राजकोट
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
AND
SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकर अपील सं./ITA No.124/RJT/2025
निर्धारणवर्ष /Assessment Year: 2022-23

Dy. CIT, Cir-1 Jamnagar.	बनाम Vs.	Vasantbhai Muljibhai Kanani Plot No.7, Ambica Enterprise Sardar Patel Ind. Estte-4 Indira Road Opp: Jakat Naka, Jamnagar-361004 (Guj) PAN : AITPK 8038 P
-----------------------------	-------------	--

आयकर अपील सं./ITA No.08/RJT/2025
निर्धारणवर्ष /Assessment Year: 2022-23

Vasantbhai Muljibhai Kanani Plot No.7, Ambica Enterprise Sardar Patel Ind. Estte-4 Indira Road Opp: Jakat Naka, Jamnagar- 361004 (Guj) PAN : AITPK 8038 P	बनाम Vs.	Dy. CIT, Cir-1 Jamnagar.
---	-------------	-----------------------------

(अपीलार्थी/assessee)	:	(प्रत्यर्थी/Respondent)
----------------------	---	-------------------------

निर्धारिती की ओर से/Assessee by : Shri Sagar Shah, Id.AR
राजस्व की ओर से/Revenue by : Shri Sanjay Punglia, Id.CIT-DR

सुनवाई की तारीख/Date of Hearing : 12/06/2025
घोषणा की तारीख/Date of Pronouncement : 28/08/2025



ORDER

Per, Dr. Arjun Lal Saini, Accountant Member:

Captioned cross appeals filed by the Revenue and assessee, pertaining to assessment year 2022-23, are directed against the common order passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC) vide order dated 26-12-2024, which in turn arise out of common assessment order passed by the Assessing Officer, under section 143(3) read with section 144B of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'), vide order dated 26.03.2024.

2. The grounds of appeals raised by the Revenue are follows:

“1. The Ld. CIT(A) has erred on the facts and in law in deleting the addition of Rs.3,47,91,594/-, made by the assessing officer resorting to the provisions of section 69C of the Income-tax Act, 1961, on account of difference of purchases shown in Form 26AS and in Profit & Loss account.

2. The Ld. CIT(A) has erred on the facts and in law in not appreciating the fact that such difference in purchase was never properly reconciled and/or explained by the assessee before the assessing officer with sufficient documentary evidences even when the assessee was afforded with ample opportunities to do so.

3. The Ld. CIT(A) has erred in the facts and in law in deleting the addition of Rs.3,47,91,594/- made by the assessing officer, solely relying on the reconciliation submitted by assessee before CIT(A), without granting the Assessing Officer a reasonable opportunity to examine the evidence, thereby violating the procedure prescribed in Rule 46A of the Income Tax Rules, 1962.

4. The Ld. CIT(A) has erred on the facts and in law in restricting the addition to Rs.15,82,000/-, as against the addition of Rs.1,86,73,000/-, made by the assessing officer resorting to the provisions of section 68 of the Income-tax Act, 1961 on account of unexplained cash credit.

5. The Ld. CIT(A) has erred on the facts and in law in not appreciating the fact that the assessee has not been able to demonstrate the creditworthiness of the lenders before the assessing officer with sufficient documentary evidences particularly when the income declared by these lenders do no commensurate with the loans so advanced.

6. The Ld. CIT(A) has erred on the facts and in law in not appreciating the fact that the assessee, in connivance with the lenders, have created a web of various transactions and ultimately such loan has been advanced to the assessee. Therefore, in absence of sufficient disposable income in the hands of such lenders, such synchronized transactions are found to be a device to channelize unaccounted income of the assessee.”



3. The assessee in its appeal has raised the following grounds:

1. *The order passed by the Ld. Commissioner of Income (Appeals), NFAC under section 250 of the Income Tax Act date 26.12.2024 allowing partial-relief of Rs. 5,18,82,394/- against the order passed by the Ld. assessing officer making total addition of Rs. 5,34,64,594/- is defective to the extent of remaining relief of Rs. 15,82,200/-, as the addition confirmed by CIT(A) u/s 68 is required to be quashed as the same is passed without verification of the proper facts and without making further inquiries.*
2. *Based on the facts and circumstance of the case the order passed by the Id. CIT(A) and Ld. assessing officer has erred in law as well as on the facts as both the lower authorities have not considered the source of lenders out of which the Advances have been provided to the assessee, they are failed to consider that lenders are regular fillers of Income Tax Returns and having enough sources to advance the money. The fact is being part of the submission, however the same is not considered in passing the assessment and appellate order while making addition u/s 68 of the Act*
3. *Based on the facts and circumstance of the case the order passed by the Id. CIT(A) and Ld. assessing officer has erred in law as well as on the facts as assessee has proved the onus of justifying source of lenders from which the advances are given to assessee, such funds are duly recorded in the books of lenders and for the verification of the same assessee has submitted cash book, return of income and balance sheet of lenders but the same was not considered by both the lower authorities while passing the order.*
4. *Based on the facts and circumstance of the case the order passed by the Id. CIT(A) and Ld. assessing officer has erred in law as well as on the facts as they have failed to verify that the funds out of which the advances are provided to the assessee is source from the income earned by the lender which is duly accounted in their books of accounts and supported by the evidences placed on record.*
5. *The order passed by the Ld. Commissioner of Income (Appeals), NFAC is bad in law as well as on the facts as Genuineness and Creditworthy of lenders is accepted for the Rs.1,70,90,800/-, however in the appellate order Ld. CIT(A) mentioned that "I am therefore of the considered view that the genuineness of unsecured loan taken by the assessee to the extent of cash deposit by the loan creditor remained unexplained and hence the same is liable to be taxed u/s. 68" when Ld. CIT(A) has accepted the genuineness of the party for the Rs.1,70,90,800/- amount of lenders, than how the partial-genuineness of Rs.15,82,200/- can be un-explained? Genuineness of the lenders cannot be considered in part, this shows CIT(A) has negligently passed the assessee order and the same is required to be set aside for the addition confirmed of Rs.15,82,200/- when the order is silent on the creditworthiness of the lenders which implied that creditworthiness is explained.*
6. *Based on the facts and circumstances of the case the order passed by the Id. CIT(A) and Ld. assessing officer has erred in law as well as on the facts that as the addition is without any third-party evidence to confirm that cash deposits are not reported income of lenders of assessee, authorities have merely based on the assumption given*



the findings that that cash deposited by the landers is not accounted income and confirmed that addition of Rs.15,82,200/- such action is against the natural justice.”

4. Ground Nos.1, 2 and 3 raised by the Revenue relates to one issue, that is, deleting the addition of Rs.3,47,91,594/-, made by the assessing officer resorting to the provisions of section 69C of the Income-tax Act, 1961, on account of difference of purchases shown in Form 26AS and in Profit & Loss account.

5. Succinctly, the factual panorama of the case is that assessee before us is an Individual and had filed his return of income for the assessment year (A.Y.) 2022-23, on 06.08.2022, declaring total taxable income of Rs. 43,37,390/-. Thereafter the case was selected for assessment under CASS for the year in question for certain reasons that the assessee has disclosed low income from receipts (Sale of scrap) on which TCS has been deducted. During the course of assessment proceedings, the assessee was issued show cause notice, on 23.03.2024. In response to the said show- cause notice dated 23.03.2024, the assessee requested for personal hearing through video conferencing. The assessee was granted video conferencing for 24.03.2024. The assessee attended video conferencing on the given date. The assessee was asked to reconcile the figures reported in Profit and loss account and in Form-26AS, where TCS collected u/s 206CR and TDS deducted u/s 194Q of the I.T. Act, in respect of purchases. The assessee replied in respect of purchase and sales in details in respect of difference in purchases, the assessee replied that he has imported the material but failed to produce any supporting documents of goods imported. It was noticed that as per 26AS, total purchases comes to Rs. 31,78,06,578/- whereas as per Profit and loss account total purchases reported Rs. 35,25,98,172. Therefore, the difference of Rs. 3,47,91,594/- in the absence of documentary evidences remained unexplained, hence disallowed Rs. 3,47,91,594/-, by the assessing officer, and added to the total taxable income of the assessee for the year under consideration.



6. Aggrieved by the order of the assessing officer, the assessee carried the matter in appeal before the Id. CIT(A), who has deleted the addition made by the assessing officer. The assessee submitted detailed reconciliation between Form No. 26AS and his profit and loss account. Such detailed reconciliation was also submitted by the assessee before the assessing officer. The learned CIT(A) examined the reconciliation and deleted the addition.

7. Aggrieved by the order of the Id. CIT(A), the Revenue is in appeal before us. The Id. DR for the Revenue, argued that the assessee has produced additional evidences during the appellate proceedings, therefore, it is a complete violation of Rule 46A of the Income Tax Rules, 1962. The Id. DR submitted that since the assessee has submitted additional evidence during the appellate proceedings, therefore, this issue may be restored back to the file of the assessing officer for fresh adjudication.

8. On merit, the Id. DR for the Revenue, submitted that the unexplained purchases were made from the suspicious parties, therefore, in the absence of documentary evidences, the entire addition, made by the assessing officer, should be sustained.

9. On the other hand, the Id. Counsel for the assessee submitted that during the assessment proceedings, the assessing officer issued notice under section 142(1) of the Act, which is placed on Paper Book (PB) Page no.10. In response to this notice, the assessee submitted all the documents and evidences, vide assessee's reply dated 31.8.2023 wherein the assessee submitted the bill of lading, bill of entry and invoices, Bank statement, before the assessing officer. Apart from this, the assessee has also submitted reconciliation statement before the assessing officer. Therefore, no other additional evidences, during the appellate proceedings were submitted before the Id. CIT(A), and therefore, the matter should not be remitted back to the file of the assessing officer to examine the same set of evidences and documents.



10. We have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the Id CIT(A) and other materials brought on record. We note that Revenue is against the addition of Rs.3,47,91,594/- deleted by Id CIT(A). Such addition was made by the assessing officer u/s 69C of the I.T. Act being difference in the amount of purchase shown in Profit & Loss account and as per form 26AS. During course of assessment proceeding, it is noted by the assessing officer that as per 26AS, total purchase works out to Rs.31,78,06,578/- whereas in the Profit & Loss account, assessee has debited total purchase of Rs.35,25,98,172/-. The assessee was asked by the assessing officer to reconcile the difference. The assessee submitted before the assessing officer all the documents and evidences and reconciliation between Form number 26AS and profit and loss account, however, the assessing officer brought to tax the differential amount of Rs. 3,47,91,594/- (Rs.35,25,98,172- Rs.31,78,06,578) u/s 69C of the I.T. Act as unexplained expenditure. During appellate proceedings, the assessee has reconciled the purchases amount as per books of account with the amount shown in form 26AS. The Id.CIT(A) noted that the difference in amounts as per books of accounts and form 26AS are mainly due to the reason that the amount shown in form 26AS is excess since TDS is collected on the purchase amount including TDS and the import purchase, on which TCS / TDS provisions are not applicable. The detailed reconciliation given by the assessee, has been examined by the learned CIT(A). We note that assessee submitted the bill of lading, bill of entry and invoices, Bank statement, before the assessing officer. Apart from this, the assessee has also submitted reconciliation statement before the assessing officer, hence there is no additional evidences were submitted before the learned CIT(A), therefore, we do not agree with the learned DR for the revenue to the effect that assessee has submitted additional evidences before the learned CIT (A). We have gone through the findings of the learned



CIT(A) and the reconciliation and the bills and vouchers and the bank statement submitted by the assessee, and noted that there is no infirmity in the conclusion reached by the learned CIT(A). That being so, we decline to interfere with the order of Id. CIT(A) in deleting the aforesaid additions. His order on this addition is, therefore, upheld and the grounds of appeal of the Revenue are dismissed.

11. In the result, ground Nos.1, 2 and 3 raised by the Revenue, are dismissed.

12. Now, we shall deal with ground nos.4, 5 and 6 raised by the Revenue, which related to addition sustained by the Id. CIT(A) to the tune of Rs.15,82,200/-, against the total addition of Rs.1,86,73,000/- made by the assessing officer.

13. Succinct facts are that during the assessment proceedings, the assessing officer observed that assessee had submitted copy of audited balance sheet and annexure thereof. On perusal of the details of unsecured loan, that is, schedule -2 to the balance sheet for the assessment year (AY) 2022-23, the following points has been noted by the assessing officer:

Name of the parties	Unsecured loan as on 31.01.2021	Unsecured loan as on 31.01.2022	Increase of unsecured loan during the year
Kanani Dharmendra Govindbhai, HUF	Rs. 4,30,000/-	Rs. 41,15,000/-	Rs. 36,85,000/-
Kanani Govindbhai Muljibhai, HUF	Rs. 4,25,000/-	Rs. 62,75,000/-	Rs. 58,50,000/-
Kanani Nilesh Govindbhai, HUF	Rs. 4,30,000/-	Rs. 41,18,000/-	Rs. 36,88,000/-
Kanani Vasantbhai Muljibhai, HUF	Rs. 4,25,000/-	Rs. 53,05,000/-	Rs. 48,80,000/-
Manjulaben Govindbhai Kanani	Rs. 43,50,000/-	Rs. 49,20,000/-	Rs. 5,70,000/-
TOTAL			Rs. 1,86,73,000/-



14. To verify the genuineness and creditworthiness of the above mentioned parties, notice u/s 133(6) of the I.T. Act, 1961, were issued to them. In response to the same, replies have been received by the assessing officer. On perusal of the reply, the assessing officer, have noticed the following points:

Name of the parties	Increase of unsecured loan during the year	Returned income for the AY 2021-22	Returned income for the AY 2022-23
<i>Kanani Dharmendra Govindbhai, HUF</i>	<i>Rs. 36,85,000/-</i>	<i>No reply received</i>	<i>No reply received</i>
<i>Kanani Govindbhai Muljibhai, HUF</i>	<i>Rs. 58,50,000/-</i>	<i>Rs. 4,77,460/-</i>	<i>Rs. 6,72,960/-</i>
<i>Kanani Nilesh Govindbhai, HUF</i>	<i>Rs. 36,88,000/-</i>	<i>No reply received</i>	<i>No reply received</i>

<i>Kanani Vasantbhai Muljibhai, HUF</i>	<i>Rs. 48,80,000/-</i>	<i>Rs. 5,67,050/-</i>	<i>Rs. 4,92,160/-</i>
<i>Manjulaben Govindbhai Kanani</i>	<i>Rs. 5,70,000/-</i>	<i>Rs. 4,78,470/-</i>	<i>Rs. 4,25,430/-</i>
TOTAL	<i>Rs. 1,86,73,000/-</i>		

15. The assessing officer, on perusal of the above table, noted that the creditworthiness of the parties who have given such huge unsecured loan during the year doesn't commensurate with their total income for the AY 2021-22 and AY 2022-23. The onus to prove the genuineness of such huge unsecured loan were lied with the assessee, however the assessee was failed to do so during the proceedings. The increase of unsecured loan to the tune of Rs. 1,86,73,000/- is nothing but an arrangement of the assessee which were rotated through the persons/ parties in the form of unsecured loans during the year. It is pertinent to mention here that parties have been replied to the notices u/s 133(6) of the I.T. Act, 1961 which seems they were bogus and un-genuine. Therefore, assessing officer issued



show-cause notice to the assessee to explain increase in unsecured loan to the tune of Rs.1,86,73,000/-.

16. In response to the above show cause notice, the assessee submitted its reply during the assessment proceedings, which were not considered by the assessing officer. The assessee explained the increase and decrease in the unsecured loan with documentary evidences, however, the assessing officer rejected the contention of the assessee and held that the creditworthiness of the parties who have given such huge unsecured loan during the year does not commensurate with their total income for the assessment year AY 2021-22 and AY 2022-23. Hence, the creditworthiness of the lender remained unexplained. Therefore, the unexplained unsecured loan of Rs.1,86,73,000/-, was added to the total income of the assessee under section 68 of the I.T. Act, 1961.

17. Aggrieved by the order of the assessing officer, the assessee carried the matter in appeal before the Id. CIT(A), who has deleted the addition made by the assessing officer. The learned CIT(A) observed that the assessee has even explained the source of source of unsecured loan taken with support of bank statement. Thus, the assessee has discharged onus cast upon him of proving the genuineness of unsecured loan taken by proving the identity of the loan creditor, his/her creditworthiness and genuineness of transaction in respect of unsecured loan taken, except the amount of unsecured loan received out of cash deposit by the loan creditors. The Id.CIT(A) noticed that the main source of income of the loan creditors is interest income received from the assessee on unsecured loans given and hence there is no evident source for any income received in cash. Therefore, the nature and source of cash deposit made by these loan creditors out of which almost equivalent amount of unsecured loan is given to the assessee remain unexplained. It was further noted that the unsecured loan out of cash deposit is given by the loan creditors on the same date that is, on 22.10.2021 and hence this do not appear to be a normal loan transaction but an arranged transaction.



Therefore, Id.CIT(A) noted that the genuineness of unsecured loan taken by the assessee to the extent of cash deposit by the loan creditor remained unexplained and hence the same is liable to be taxed u/s 68 of the I.T. Act. Therefore, the addition made by assessing officer was therefore confirmed by Id.CIT(A) to the extent of Rs.15,82,200/- being the total amount of cash deposits by the loan creditors out of which unsecured loan is received by the assessee. This way, the Id.CIT(A) partly allowed the appeal of the assessee.

18. Aggrieved by the order of the learned CIT(A), the Revenue as well as assessee both are in appeal before us. The Revenue is in appeal before us, on the stand that the total addition made by the assessing officer on account of unexplained unsecured loan of Rs.1,86,73,000/-, should be added to the total income of the assessee. However, the assessee is in appeal before us (vide appeal in ITA No.08/RJT/2025) against the addition confirmed by Id.CIT(A) to the extent of Rs.15,82,200/-.

19. The Id. DR for the Revenue, argued that in respect of cash credit of Rs.1,86,73,000/-, the assessee has failed to prove credit-worthiness and identity of the parties. Therefore, the Id. DR for the Revenue submitted that the assessee has failed to prove the credit-worthiness of the parties. Therefore, the addition sustained by the assessing officer should be upheld.

20. The Id. DR for the Revenue, also argued that during the appellate proceedings, the assessee has submitted additional evidences before the Id. CIT(A). Based on these additional evidences, the Id. CIT(A) deleted the addition, without giving opportunity to the assessing officer to examine these additional evidences, therefore, matter of the assessee, may be restored back to the file of the assessing officer for fresh adjudication.

21. Learned Counsel for the assessee, on the other hand, submitted that during the assessment proceedings, before the assessing officer, the entire documentary



evidences were produced by the assessee. However, the assessing officer did not bring these evidences on record in the assessment order. The Id. Counsel for the assessee took us through the letter submitted before the assessing officer along with documentary evidences, and stated that entire documents/evidences were on the file of the assessing officer. Even, reconciliation statement was also produced which were also on the file of the assessing officer. Therefore, no other additional evidences were produced during the appellate proceedings, and thus, the matter should not be restored back to the assessing officer for fresh examination of the same documents and evidences.

22. On merits, the Id. Counsel for the assessee submitted that the assessee has proved the genuineness, credit-worthiness and identity of these persons by submitting the copy of the confirmation, copy of bank statement, copy of cash book, copy of income-tax return, copy of balance-sheet, copy of source of fund made by the lenders, confirmations etc. The assessee has also submitted contra confirmations, and this way, the assessee has not only proved the source, but source of source has also been proved by the assessee. Therefore, the Id. CIT(A) has rightly deleted the addition.

23. With respect to assessee's appeal in ITA No.08/RJT/2025, the Id. Counsel for the assessee, submitted that based on these same documents/ evidences, no additions should have been made in the hands of the assessee, therefore, the addition sustained by the Id. CIT(A), for which the assessee is in cross-appeal to the tune of Rs.15,82,200/- should also be deleted.

24. We have heard both sides in detail and also perused the records of the case including the paper book filed by the assessee. During assessment proceedings, assessing officer noticed from the balance sheet for the relevant previous year that the assessee has received unsecured loan from five parties total amounting to Rs.1,86,73,000/-. To verify the genuineness and creditworthiness of these persons,



notice u/s.133(6) of the I.T. Act was issued by the assessing officer. The assessing officer noted that out of five notices issued, two parties have failed to respond and in respect of the remain three persons, the assessing officer on verification of return of income filed by them for A.Y.2021-22 and 2022-23 found that the income shown by these persons do not commensurate with the amount of unsecured loan given to the assessee. The assessing officer therefore held that the assessee failed to prove the creditworthiness of the parties who have given amount of unsecured loan to the assessee and thus the creditworthiness of lender remains unexplained. The total amount of unsecured loan of Rs.1,86,73,000/- was therefore brought to tax u/s 68 of the I.T. Act. We note that during appellate proceedings, assessee filed detailed written submission and documentary evidences in the nature of loan confirmation letter, copies of bank statement, copies of returns of income filed and ledger account of the loan creditors and on verification following facts emerged.

(1) Dharmendra Govindbhai Kanani(HUF) Rs.36,85,000/-			
Date	Amount of unsecured loan (Rs.)	Source	Source of source
16.04.2021	30,00,000	Out of funds received from Dharmendra Kanani of Rs.15,00,000/- and Kavita Kanani of Rs.15,00,000/-	Out of funds received by both persons from appellant's concern M/s. Ambika Enterprises
12.07.2021	1,00,000	Major source is out of	--



		interest of Rs.78,153/- paid by appellant to Dharmendra Govindbhai Kanani (HUF)	
04.10.2021	95,000	Major source is out of interest of Rs.95,947/- paid by appellant to Dharmendra Govindbhai Kanani (HUF)	
22.10.2021	3,95,000	Out of cash deposit of Rs.3,92,600/-	Source of cash deposits not explained
07.01.2022	1,10,000	Major source is out of interest of Rs.1,06,488/- paid by appellant to Dharmendra Govindbhai Kanani (HUF)	
TOTAL	37,00,000		
As per return of income filed, the sources of income of this loan creditor is consultancy income and income from other sources in the nature of interest received from the appellant on loans.			

(2)Govindbhai Muljibhai Kanani(HUF) Rs.58,50,000/-			
13.04.2021	50,00,000	Out of funds received from Manjulaben Kanani of Rs.25,00,000/- and Govindbhai Kanani of Rs.25,00,000/-	Out of funds received by Manjulaben Kanani of Rs.27,50,549/- and Govindbhai Kanani of Rs.29,85,625/- with narration in bank account as 'CHQ



			DEP-MICR& CLEARING ABHISHEK SAR GOVERNMENT OF INDIA- STATE BANK OF INDIA'
12.07.2021	1,50,000	Major source is out of interest of Rs.1,26,841/- paid by appellant to Govindbhai Muljibhai Kanani (HUF)	
04.10.2021	1,50,000	Major source is out of interest of Rs.1,48,087/- paid by appellant to Govindbhai Muljibhai Kanani (HUF)	
22.10.2021	3,95,000	Out of cash deposit of Rs.3,97,100/-	Source of cash deposits explained not
07.01.2022	1,65,000	Major source is out of interest of Rs.1,63,701/- paid by appellant to Govindbhai Muljibhai Kanani (HUF)	
TOTAL	58,50,000		

As per return of income filed, the source of income of this loan creditor is income from other sources in the nature of interest received from the appellant on loans.

(3)Nilesh Govindbhai Kanani(HUF) Rs.36,88,000/-



16.04.2021	30,00,000	Out of funds received from Nilesh Govindbhai Kanani of Rs.12,00,000/- and Alka Kanani of Rs.18,00,000/-	Out of funds received by Nilesh Govindbhai Kanani of Rs.12,00,000/- from Nilesh Kanani and Alka Kanani of Rs.18,00,000/-from Alka Kanani
12.07.2021	1,00,000	Major source is out of interest of Rs.78,153/- paid by appellant to Nilesh Govindbhai Kanani (HUF)	--
04.10.2021	1,00,000	Major source is out of interest of Rs.95,946/- paid by appellant to Nilesh Govindbhai Kanani (HUF)	--
22.10.2021	3,95,000	Out of cash deposit of Rs.3,96,840/-	Source of cash deposits not explained
07.01.2022	1,05,000	Major source is out of interest of Rs.1,06,676/- paid by appellant to Nilesh Govindbhai Kanani (HUF)	--
TOTAL	37,00,000		

As per return of income filed, the source of income of this loan creditor is income from other sources in the nature of interest received from the appellant on loans.

(4)Vasantbhai Muljibhai Kanani(HUF) Rs.48,80,000/-



16.04.2021	31,10,000	Out of funds received from Hemaben Kanani	Funds received by Hemaben Kanani of Rs.29,85,625/- as per narration in bank account as received from 'CHQ DEP-MICR& CLEARING - ABHISHEK SAR GOVERNMENT OF INDIA- STATE BANK OF INDIA'
17.04.2021	10,00,000	Out of funds received from Hemaben Kanani	Out of funds received from Hemaben Kanani
12.07.2021	1,25,000	Major source is out of interest of Rs.1,02,356/- paid by appellant to Vasantbhai Muljibhai Kanani (HUF)	--
04.10.2021	1,20,000	Major source is out of interest of Rs.1,26,684/- paid by appellant to Vasantbhai Muljibhai Kanani (HUF)	--
22.10.2021	4,00,000	Out of cash deposit of Rs.3,95,650/-	Source of cash deposits not explained
07.01.2022	1,40,000	Major source is out of interest of Rs.1,38,012/- paid by appellant to Vasantbhai Muljibhai Kanani (HUF)	--



TOTAL	49,05,000		
As per return of income filed, the source of income of this loan creditor is income from other sources in the nature of interest received from the appellant on loans.			
(5)Manjulaben Govindbhai Kanani(HUF) Rs. 5,70,000/-			
13.04.2021	3,30,000	Out of funds received of Rs.27,50,549/-	As per narration in bank account, out of funds of Rs.27,50,549/- received from 'CHQ DEP-MICR& CLEARING - ABHISHEK SAR GOVERNMENT OF INDIA- STATE BANK OF INDIA'
12.07.2021	1,25,000	Out of fund received from-- Manjulaben Kanani of Rs.1,24,842/-	
07.01.2022	1,30,000	Major source is out of-- interest of Rs.1,30,406/- paid by appellant to Manjulaben Govindbhai Kanani (HUF)	
TOTAL	5,85,000		

As per return of income filed, the source of income of this loan creditor is income from other sources in the nature of interest received from the appellant on loans.



25. From the above factual position, the Id.CIT(A) noticed that the assessee has even explained the source of source of unsecured loan taken with support of bank statement. Thus, it is clear from the above facts that the assessee has discharged onus cast upon him of proving the genuineness of unsecured loan taken by proving the identity of the loan creditor, his/her creditworthiness and genuineness of transaction in respect of unsecured loan taken, except the amount of unsecured loan received out of cash deposit by the loan creditors. Therefore, out of total unsecured loan to the tune of Rs.1,86,73,000/-, the Id.CIT(A) confirmed the addition of Rs. to the extent of Rs.15,82,200/-.

26. Now, coming to the assessee's appeal in ITA No.08/RJT/2025, we note that the assessee has submitted entire documents and evidences to prove source of lenders, out of which, the advances have been provided to the assessee. However, the assessing officer has not considered the same. Not only that the assessee has proved the source of source. Therefore, in this scenario, the addition sustained by the Id. CIT(A) to the tune of Rs.15,42,200/-, based on the same documents and evidences should also be deleted. However, the Id. DR for the Revenue submitted that the original addition made by the assessing officer should be sustained, or alternatively, the case of the assessee may be remitted back to the file of the assessing officer for fresh adjudication. We note that in respect of all these parties, details were submitted against the show cause notice and against the notice issued under section 133(6) of the Act. In this regard, the Id. Counsel for the assessee prepared a summary of these five parties which are given below:



Sr No.	Name of the Party	Amount	Remarks
1.	Kanani Dharmendra Govindbhai Huf	36,85,000	The response to the notice was duly submitted by lender and same fact was stated during the SCN. Ld. FAO had not considered the same fact while passing the order. The acknowledgement of the reply filed vide ack no 113057031150224 was also submitted during the reply to SCN.
2.	Kanani Govindbhai Muljibhai Huf	58,50,000	The response to the notice was duly submitted by lender and same fact was stated during the SCN. Ld. FAO had not consider the same fact while passing the order
3.	Kanani Nilesh Govindbhai Huf	36,88,000	Notice u/s 133(6) was not issued to the party and therefore could not file reply but confirmation is already placed on records in response to reply to SCN
4.	Kanani Vasant Muljibhai Huf	48,80,000	The response to the notice was duly submitted by lender and same fact was stated during the SCN. Ld. FAO had not consider the same fact while passing the order
5.	Manjulaben Govindbhai Kanani	5,70,000	The response to the notice was duly submitted by lender and same fact was stated during the SCN. Ld. FAO had not consider the same fact while passing the order

We note that the Assessing Officer cannot merely rely on the ITR-V of the lenders to claim that they lacked the capacity to give loans. The income shown in ITR-V is after deductions and does not reflect total financial capacity of lenders. Moreover, the assessing officer has ignored the possibility that the loans could have been given from past savings, not just current year income. Despite submitting complete documents, such as ITRs, balance sheets, bank statements, contra confirmations, and details of the source of funds, the assessing officer has not made any specific comments or rebuttals on this evidences. Therefore, for the balance of Rs.15,82,200/-, as the same documents and evidences were on the file of the assessing officer, therefore, the remaining portion sustained by the Id. CIT(A) to the tune of Rs.15,82,200/- should also be deleted. Besides, we also confirm the



findings of the Id.CIT(A) in deleting the addition of Rs.1,70,90,800/- (Rs.1,86,73,000 -Rs.15,82,200), based on the detail reasoning given in para No.25 of this order. Accordingly, we delete the impugned addition and allow the appeal of the assessee.

27. In the result, appeal filed by the revenue is dismissed, whereas appeal filed by the assessee is allowed.

Order is pronounced in the open court on 28/08/2025

Sd/-

(DINESH MOHAN SINHA)
JUDICIAL MEMBER

Sd/-

(DR.ARJUNLAL SAINI)
ACCOUNTANT MEMBER

राजकोट /Rajkot

दिनांक/ Date: 28/08/2025

*vk

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

- अपीलार्थी/ The assessee
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त(अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, राजकोट/ DR, ITAT, RAJKOT
- गार्डफाईल/ Guard File

By order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot

Date

12.06.2025

1. Draft dictated on



2. *Draft placed before author*
3. *Draft proposed & placed before the second member*
4. *Draft discussed/approved by Second Member.*
5. *Approved Draft comes to the Sr.PS/PS*
6. *Kept for pronouncement on*
7. *File sent to the Bench Clerk*
8. *Date on which file goes to the AR*
9. *Date on which file goes to the Head Clerk.*
10. *Date of dispatch of Order.*
11. *Draft dictation sheets are attached*