

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.747/SRT/2024

Assessment Year: (2016-17)

(Hybrid hearing)

Shri Vijay Bhandari, Mataji Enterprises Shop No. UG- 17, Bhilad Plaza Shopping Centre Bhilad, Bhilad - 396105	vs.	ITO, National Faceless Assessment Centre, Delhi
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AJTPB2990E		
(Appellant)		(Respondent)

Appellant by	Shri Nemish J. Shah, CA
Respondent by	Shri Ajay Uke, Sr. DR with Shri Kevin Langaliya, CA
Date of Hearing	21/07/2025
Date of Pronouncement	29/08/2025

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 01.12.2023 by the Commissioner of Income-tax (Appeals), NFAC, Delhi [in short, 'CIT(A)'] for the assessment year (AY) 2016-17, which in turn arises out of assessment order passed by the Assessing Officer (in short, 'AO') u/s. 147 r.w.s. 144 r.w.s. 144B of the Act on 15.03.2022.

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

"1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in confirming the addition u/s.68 of the Act of Rs.40,61,93,200/- on account of alleged involvement of the appellant in arranging for accommodation entries for various entities.

2. The Ld. CIT(A) failed to appreciate the fact that:

(a) the appellant was made victim in scam carried out by unknown person;
(b) the alleged transactions were not carried by the appellant;
(c) the bank account in which such transaction are carried out does not belong to the appellant;
(d) the fraudster has forged the KYC documents of the appellant and opened the current account in the bank in the name of "M/s. Addi Enterprise";
(e) such fraudulent activity came to the knowledge of the appellant only after receipt of information from CBI Hyderabad, who is investigating the case;
(f) the appellant has faced a lot of mental and financial stress due to such fraudulent activity done by unknown person in his name.
The appellant prays that the high-pitched addition u/s. 68 of the Act of Rs.40,61,93,200/- be deleted.

3. The appellant craves leave to add, amend, alter, edit, delete, modify or change all or any of the grounds of appeal at the time of or before the hearing of the appeal."

3. The appeal filed by the assessee is barred by 149 days in terms of provisions of section 253(3) of the Act. The assessee has filed an affidavit for delay in filing of appeal before the Tribunal. In the affidavit, it has been stated that the appellant is a small cloth merchant residing at Bhilad, Gujarat and sole bread earner of the family. He was unaware of the fact that his KYC documents were forged and a bank account in name of Aadi Enterprises was opened, wherein unsolicited transactions were carried out by fraudsters. Such information came to the knowledge of the appellant through the CBI, Hyderabad. At the

same time, the Income-tax authorities were also regularly following up with the appellant for payment of outstanding demand of Rs.25,56,53,848/-. The appellant was busy in compiling relevant documents for filing appeal before ITAT, viz., copies of charge sheet from the CBI, Hyderabad, status of ongoing investigation, FIR with police, account opening form and KYC documents used in opening fake bank account from Bank of Maharashtra. Due to the aforesaid reasons, appellant was constantly under mental and financial stress. The learned Authorized Representative (Ld. AR) of the assessee submitted that the delay in filing appeal was unintentional, *bona fide* and appellant was prevented by sufficient cause in filing the appeal in time. He requested that in the interest of justice, the delay may be condoned and the appeal may be admitted for hearing. On the other hand, learned Senior Departmental Representative (Sr. DR) for the revenue did not have any objection, if the delay is condoned.

4. We have heard both the parties and perused the materials available on record. We find that the delay in filing the appeal was not deliberate and intentional on the part of assessee. Moreover, the assessee is not going to be benefitted by filling appeal belatedly. It is now fairly settled that when technical consideration and cause of substantial justice are pitted against each other, the cause of substantial justice may be preferred. Hence, delay in filling the appeal is condoned and we proceed to decide the case on merit.

5. Brief facts of the case are that the appellant is an individual and derived his income from clothing business. The appellant filed return of income for AY 2016-17 on 08.11.2016 declaring total income of Rs.2,79,352/- u/s.44AD of the Act on gross turnover of Rs.18,62,347/-. As per the information received by the Department, appellant had taken accommodation entries during the year credit and debit. A search and seizure action was conducted against AMQ group of companies promoted by Mr. Moin Akhtar Qureshi. Shri Sanjay M. Jain was the kingpin of the entire operation through whom accommodation entries were arranged for Mr. Moin Akhtar Qureshi by way of transfer of funds to the bank account of one of the offshore entities in Hong Kong in lieu of cash received in India through angadias. Further, association between Shri Sanjay M. Jain and Shri Rajiv Bharat Jangla was much deeper and extended to arranging accommodation entries in India as well by arranging fund transfer through RTGS operation. Shri Jangla was collecting cash from various Delhi based angadias as per instructions received from Shri Sanjay M. Jain and used to contact different accommodation entry providers in Delhi, who arranged RTGS/bank transfer to the desired bank accounts in lieu of a commission. Further, cash received from various entry operators was eventually transferred as RTGS to bank accounts controlled and managed by Shri Sanjay M. Jain who had maintained bank account with RBL Bank Ltd., Noida and other branches in the name of various entities. The bank accounts

in the name of Globus Enterprises (Prop. Shri Abhishek Jha), Shri Krishna Trading Co. (Prop. Shri Rakesh Ranjan), Monarch Trading Co. (Prop. Mumtax Ali Shaikh), Neelkanth Enterprises (Prop. Raghvendra Singh), Vaibhav Enterprises (Prop. Kishan Chand) and Bestone Esculent Oil Mill Pvt. Ltd. were used to receive funds through RTGS against cash given by him to various parties. On analysis of the bank statement of these entities, large number of credit and debit were found. On perusal of ITR profiles and physical verification of the above entities, it was observed that aforesaid entities neither filed any ITR nor carried out any business activities. Even in the case of the entities who have filed ITR, the income reported varied a lot from year to year. Thus, from perusal of the ITR of these entities, it was amply clear that their profiles did not support the huge transactions reflected in the bank statement of these entities. It was, thus, clear that above mentioned entities were involved in arranging accommodation entries.

5.1 As per the information, the appellant had both debit and credit entries from the following entities, the details of which were as under:

SI No.	Name of party	Name of entities	PAN of entities	Amount credited to assessee (Rs)	Amount debited to assessee (Rs)
	ADDI Enterprises (AJTPB2990E)	Globus Enterprises	ARRPJ9199F	16,70,00,500	1,44,00,000
		Sri Krishna Trading Co.	AKGPR0543M	9,96,12,400	1,30,00,000
		Neelkanth Enterprises	BNLPS7699E	7,21,69,800	
		Vaibhav Enterprises	EACPK1302K	6,74,10,500	1,30,00,000
		Total		40,61,93,200	40,4,00,000

5.2 The assessee had routed his own cash and taken the accommodation entries as credits and debits in the bank account. Thus, total credit of Rs.40,61,93,200/- was treated as undisclosed income of the assessee for the subject year. Hence, the case of the assessee was reopened after recording reasons and notice u/s.148 of the Act was issued on 31.03.2021. However, no return of income was filed in response thereto. Subsequently, assessee was provided adequate opportunities to file reply and explanation vide notices u/s.142(1) and show cause notice, but there was no compliance by the assessee. Consequently, the AO invoked provisions of section 144 of the Act and after giving assessee opportunity of being heard made the assessment of total income to the best of his judgment. The AO observed that the assessee had taken the credit entries of Rs.40,61,93,200/- from several parties (details in the table in the preceding para). Since the assessee failed to furnish any details and explanation to establish the identity and creditworthiness of the creditors and the genuineness of the transactions, the impugned amount of Rs.40,61,93,200/- remained unexplained cash credit and the same was added to the total income u/s.68 of the Act.

6. Aggrieved by the assessment order, appellant preferred appeal before CIT(A) on 12.12.2022. Though the appeal was filed beyond the prescribed time limit of 30 days, the CIT(A) condoned the delay and admitted the appeal for

adjudication. During the appellate proceedings, various notices were issued u/s.250 of the Act; however, appellant neither responded to such notices nor filed any written submission along with supporting evidences. In absence of any response by the appellant, CIT(A) decided the appeal on the basis of material available on record. The appellant failed to furnish any evidence to substantiate his claim in support of grounds of appeal. Besides, no argument was made by the appellant to controvert the findings of the AO in the assessment order. Accordingly, appeal of the appellant was dismissed by the CIT(A).

7. Aggrieved by the above order of the CIT(A), the appellant has preferred present appeal before the Tribunal. The Ld. A.R. submitted a paper book containing submission note, notarized copy of affidavit filed by the assessee, certified true copy of original PAN, self certified copy of election card, copy of signature verification report from HDFC Bank, newspaper cutting with respect to fraud at State Bank of Hyderabad and copy of RTI application filed with Bank of Maharashtra. The Ld. AR has relied on the decision of the ITAT Jodhpur Bench in the case of Pradeep Nimawat vs. ITO in ITA No.317-318/Jodh/2023 dated 05.03.2024.

7.1 The appellant has filed an affidavit and furnished a submission note wherein it is stated that he is a law abiding citizen and was running a small clothing business for women since last 20 years. The appellant is a native of Pali

(Marwar), Rajasthan and was relocated to Malad, Mumbai in 2007 for better income opportunities. After staying there for 5 years, appellant again shifted to Vapi, Gujarat and since then he is living in Bhilad, Vapi with his family. He further submitted that on 05.03.2020, two police officers came and took him to Bhilad Police station and after his medical check-up, took him to Hyderabad. The police officers informed him that they were from CBI and that his PAN and Election cards were misused by someone and there were substantial transactions in his bank account. After reaching Hyderabad, he was produced in the CBI Principal Court, Hyderabad and was sent to the Chanchalguda Central Jail for 14 days. But he was not interrogated in the jail. He was told that there was criminal case against him as he had a current bank account in the name of 'Aadi Enterprises' with Bank of Maharashtra, Thane Branch, Mumbai. Subsequently, appellant was released on bail on 20.03.2020 and was told by his lawyer that a case was registered against him at the Special CBI Court, Hyderabad vide CC No. 1200009/2018 for fraudulently opening bank account and for making fraud payments.

7.2 The CBI again arrested him on 10.03.2022 and kept him in jail for about 6/7 days. He was released on bail on 20.03.2022. In the subsequent hearing on 26.03.2022 before the CBI court, the appellant was provided with a charge sheet, from which he came to know that his photo and signature were misused and

transactions in crores of rupee were done in September and October, 2015 from his account in the name of 'Aadi Enterprises'.

7.3 It is also submitted that the case of the appellant is in trial stage for long and the appellant has suffered a lot due to the above incident. The appellant stated in the affidavit that the said bank account in the name of Aadi Enterprise did not belong to him and all the transactions in the account were not made by him. He is a victim of KYC fraud since his PAN card and his signature were forged by the fraudsters to open the said bank account. In view of the above facts, the appellant requested to allow the appeal.

8. On the other hand, Ld. Sr. DR for revenue supported the order passed by the lower authorities and submitted that despite being provided with reasonable opportunities by both the AO and CIT(A), appellant failed to produce any cogent evidence in support of his claim. He submitted that addition u/s 68 of the Act was rightly made because the assessee failed to prove with supporting evidences the identity and creditworthiness of the creditors and genuineness of the transactions before AO or CIT(A) and even before the Tribunal. The explanation given by Ld.AR is general in nature and does not satisfactorily explain the nature and source of the credits in the impugned bank account maintained with Bank of Maharashtra.

9. We have heard both the parties and perused the materials on record. We have also deliberated on the decision relied upon by the appellant. The main contention raised by the assessee is that he has been a victim of identity theft, whereby fraudsters misused his PAN card and forged his signature to open a current account in the name of "Aadi Enterprises" in the Bank of Maharashtra, through which alleged credit entries totaling Rs.40.61 crores were routed. Based on this assertion, the assessee claims no connection with the said bank account or transactions made therein.

9.1 However, on examination of the record, we find that the assessee has not discharged the primary onus placed upon him u/s 68 of the Act, which mandates that the assessee must satisfactorily explain the identity and creditworthiness of the person from whom the credits were received and the genuineness of the transactions. Nowhere did the appellant produce any documentary evidence to demonstrate that his signatures were forged. Even assuming for a moment that the appellant had no knowledge about the purported forgery, the burden was upon him to substantiate the serious allegation of forgery with credible and conclusive evidence, which he has failed to do. Despite repeated opportunities at every stage, i.e., during the assessment stage before AO, appellate proceedings before CIT(A), or before the Tribunal, the assessee has failed to bring any conclusive evidence or documentation to support his claim. There is no

conclusive proof produced that: (i) that the bank account in the name of Aadi Enterprises was opened fraudulently without his knowledge; (ii) that the signature or KYC documents used were forged or tampered with; (iii) any complaint or FIR was lodged by the assessee upon discovering the alleged fraud; (iv) the Bank of Maharashtra has confirmed, in response to any complaint or legal process, that the account was opened fraudulently and (v) that any order or observation has been made by the Hon'ble CBI Court exonerating the assessee or acknowledging the forgery of KYC.

9.2 It is trite law that bald assertions without evidentiary backing cannot form the basis for discharging the onus u/s 68 of the Act. The appellant has filed a self-serving affidavit and copies of some documents, including letter of Bank of Maharashtra to DIG, CBI, Hyderabad, copy of account opening Form, KYC documents, copy of rent agreement, copy of bank statement, etc. However, copy of the charge sheet, FIR details or specific charges framed against the assessee have not been placed before us. No document has been filed to show that the Hon'ble CBI Court has accepted that the assessee was not involved in the forgery of the impugned bank account or was wrongly implicated. In fact, from the facts narrated by the assessee himself, it is evident that he was arrested twice by the CBI and was in judicial custody for several days. Such custodial detention and continued trial proceedings contradict the claim that he was merely a victim of

identity theft. No evidence has been furnished to show that he has been discharged or acquitted by the Hon'ble CBI Court.

9.3 It is further observed that the entire case of the assessee hinges on an unverified narrative, not supported by independent confirmation from any authority/Court. Even assuming that the appellant was made aware of the fraud in March 2020, no credible or timely effort has been demonstrated, either legally or administratively, to mitigate or contest the alleged misuse of his identity. The appellant has neither produced evidence of initiating civil proceedings against the bank, nor filed a criminal complaint against the alleged fraudsters. In this backdrop, the narrative of victimization claimed by the assessee lacks coherence, credibility and corroboration. On the contrary, the AO, based on cogent material including investigation reports of entities involved in accommodation entry operations, has made the addition u/s 68 of the Act after giving the assessee adequate opportunity of hearing.

9.4 As per the bank records relied upon by the AO, the entity "Aadi Enterprises" had received credits aggregating to Rs.40.61 crores during the subject year. In the absence of any satisfactory explanation or rebuttal with documentary proof, the conclusion of the AO and confirmation by the CIT(A) treating the same as unexplained cash credits u/s 68 of the Act is fully justified.

9.5 The assessee has placed reliance on the decision of the Hon'ble ITAT, Jodhpur Bench in the case of Pradeep Nimawat (supra) to support the argument that identity theft and misuse of PAN led to fraudulent transactions, for which the assessee should not be held liable. However, we find that the facts of the case relied upon are clearly distinguishable from the present case for the following reasons: (a) In case of Pradeep Nimawat's (supra), the name of person who had fraudulently opened the bank accounts by misusing the PAN and KYC of the assessee was clear and that person confessed before ED/CBI that bank accounts were fraudulently opened by him for manipulating his various banking transactions and for obtaining large bank loan and (b) the assessee in that case also proactively approached various authorities. On the contrary, in the present case: (a) No complaint has been filed against the bank or fraudster, (b) No confirmation has been forwarded from the bank regarding the innocence of the appellant; (c) No discharge or acquittal report from any authority or court and has been furnished (d) No complaint was filed by the assessee with any law enforcement agency after allegedly learning of the purported fraud. Therefore, the reliance placed by the assessee in the case of Pradeep Nimawat (supra) is misplaced and would not come to the rescue of the appellant.

10. It is clear from the facts narrated above that the appellant has failed to furnish any credible and independent evidence to support his claim that he was

not involved in the transactions under consideration or that the account was opened without his knowledge. The appellant has failed to satisfactorily explain with evidence that the mischief of section 68 of the Act is not attracted to the facts of his case. Useful reference be made to the decision of the Hon'ble Supreme Court in case of CIT vs. K. Chinnathamban, 292 ITR 682 (SC) where it was held that the onus of proving source of deposit primarily rests on person in whose name deposit appears in various banks. Since the assessee failed to show that the amount in question did not represent his income, the Department was justified in treating same as assessee's income.

11. We also find that the co-ordinate Bench of this Tribunal in the case of Shri Vikas Agarwal vs. ITO in ITA Nos. 186-193/SRT/2025 dated 19.08.2025 has decided similar issue against the appellant where he tried to disown the deposits of cash and other credits in various bank accounts opened in the name of his concerns by stating that the PAN and bank account were fraudulently opened without his knowledge. However, the appellant could not produce any evidence in support of forgery before the AO, CIT(A) and the Tribunal. Hence, the appeal by the appellant was dismissed. The facts of the instant appeal are similar. There is no reason as to why the ratio of the above decision shall not be applicable to the instant appeal.

12. In view of the above factual and legal background, we find no reason to interfere with the order of the CIT(A) confirming the addition of Rs.40,61,93,200/- made by the AO u/s 68 of the Act. In the result, the appeal filed by the assessee is dismissed.

13. In the result, appeal of the assessee is dismissed.

Order pronounced in accordance with Rule 34 of ITAT Rules, 1963 on 29/08/2025 in the open court.

Sd/-
(DINESH MOHAN SINHA)
न्यायिक सदस्य/JUDICIAL MEMBER

सूरत /Surat

दिनांक/ Date: 29/08/2025

Dkp Outsourcing Sr.P.S*

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

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

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- **प्रत्यर्थी/ The Respondent**
- **आयकर आयुक्त/ CIT**
- **आयकर आयुक्त (अपील)/ The CIT(A)**
- **विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, सूरत/ DR, ITAT, SURAT**
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By order/आदेश से,

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आयकर अपीलीय आधिकरण, सूरत