

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, AHMEDABAD**

**BEFORE: SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER
AND
SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. Nos. 830 to 833/Ahd/2023
(निर्धारण वर्ष / Assessment Years : 2014-15 to 2017-18)

Suresh Prabhulal Kabra C/o. Kabra & Co. B/h. Kikabhath Ni Pole, Lunsavad, Dariapur, Ahmedabad, Gujarat 380001	बनाम/ Vs.	ITO Ward-1(1)(3), Ahmedabad
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AFTPK6775Q		
(Appellant)	..	(Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Parin Shah, AR
प्रत्यर्थी की ओर से/Respondent by :	Shri A P Singh, CIT. DR

Date of Hearing	09/07/2025
Date of Pronouncement	03/09/2025

(आदेश)/ORDER

PER ANNAPURNA GUPTA, AM:

The present four appeals filed by the assessee against the separate orders of the Ld. Commissioner of Income Tax (Appeals), (hereinafter referred to as “CIT(A)”), National Faceless Appeal Centre (hereinafter referred to as “NFAC”), Delhi dated 29.08.2023, 21.08.2023, 21.08.2023 & 29.08.2023; respectively passed under Section 250 of the Income Tax Act, 1961 (hereinafter

referred to as the “Act”) and relate to Assessment Years (A.Ys.) 2014-15 to 2017-18.

2. At the outset itself it was stated that the issue arising in all the appeals of the assessee was common, pertaining to the addition made on account of alleged accommodation entry taken by the assessee. Therefore, all the appeals were taken up together for hearing and are being disposed of vide this common consolidated order.

3. The quantum of accommodation entry alleged to have been taken by the assessee in each year is as under:

<i>Sl. No.</i>	<i>ITA No.</i>	<i>A.Y.</i>	<i>ADDITION</i>
1	ITA No.830/Ahd/2023	2014-15	Rs.17,16,95,541/-
2	ITA No.831/Ahd/2023	2015-16	Rs.18,86,73,700/-
3	ITA No.832/Ahd/2023	2016-17	Rs.24,65,97,112/-
4	ITA No.833/Ahd/2023	2017-18	Rs.15,29,66,545/-

The arguments of the Ld. Counsel for the assessee before us was that the information in the possession of the Department was that M/s. Kabra & Co. had availed accommodation entry from an alleged accommodation entry provider, Shri Sanjay Tibrewal. The contention of the Ld.Counsel was that it was repeatedly pointed out to the authorities below that M/s. Kabra & Co. was the proprietorship concern of the assessee’s HUF and not his own proprietorship concern. Evidences were filed during assessment proceedings demonstrating that M/s. Kabra & Co. had been assessed separately in the preceding years as proprietorship of the

assessee's HUF. It was pointed out that the authorities below still held M/s Kabra & Co. to be assessee's proprietorship concern noting that the bank account of M/s Kabra & Co. in Kotak Mahindra Bank, where the alleged accommodation entry was taken by the assessee, carried PAN of the assessee in his individual capacity and not the PAN of the assessee HUF.

4. It was contended that undoubtedly the information in possession of the Department pertained to accommodation entries taken by M/s. Kabra & Co. but the dispute is whether M/s. Kabra & Co. was proprietorship concern of the assessee in his individual capacity or the proprietorship concern of the assessee's HUF.

5. During the course of hearing before us Ld.Counsel for the assessee pointed out that in succeeding years i.e. A.Y. 2019-20 & 2020-21, the case of the assessee in his individual capacity was reopened for the same reasons as in the years impugned before us, i.e on the basis of information that M/s. Kabra & Co. had taken accommodation entry from certain accommodation entry providers. He pointed out that during assessment proceedings in the said years, the assessee had again pointed out that M/s. Kabra & Co. was the proprietorship concern of the assessee's HUF and this fact was verified by the AO and no addition accordingly made in the said years i.e. A.Ys. 2019-20 & 2020-21, in the hands of the assessee. He pointed out that the assessment orders for these two years record the noting by the AO of passing on the relevant information of accommodation entry having received by the Kabra

& Co. to the AO of the assessee's HUF for taking necessary action after acknowledging the assessee's contention that M/s. Kabra & Co. was the proprietorship concern of the assessee's HUF.

6. On 04-03-2025 when the matter was heard at length and this plea was raised by the assessee, the Ld.DR pleaded that an opportunity be given to the AO for verifying the fact of M/s Kabra & Co being the proprietorship concern of the assessee's HUF, contending that the facts of each year may vary. The Bench accordingly directed the DR to seek a report from the AO regarding veracity of the contention raised by the assessee that the bank account in which the alleged accommodation entry was stated to be received by the assessee pertained to the HUF of the assessee. The DR was directed to submit the AO's report on 16th April, 2025. The said order sheet entry reads as under:

"The case of the Ld. counsel for the assessee was that the bank account attributed to the assessee and transactions recorded therein were added in the hands of the assessee as unexplained, related as a matter of fact to the HUF of the assessee verified by the AO by assessee. That this conducting independent inquiry from the bank in Asstt. Year fact was 2020-21 and 2019-20. Copies of assessment orders were 43-48 before placed respectively. at P.B. Page No.49-55 and

The Ld. DR however objected to the same contending that this contention of the assessee is a matter of fact and needs to be established in each year.

Considering the contention of both the sides, with the AO having verified concerned bank account to belong to the HUF of the assessee, and not the assessee in other years, and the DR contending this fact to be established in the impugned year, we consider it fit to direct the DR to seek a report from the AO regarding the impugned fact. The AO may conduct necessary inquiries in this regard and even ask to submit necessary details/information in the assessee this regard.

The DR is directed to submit the AO's report on the next date of hearing fixed on 16/04/2025.

Appeal to continue as part heard."

7. Thereafter, the matter came up for hearing on four occasions in the intervening period, when on two occasions i.e. 16.04.2025 and 06.05.2025, the Ld. CIT.DR sought some more time to comply with the direction of the Bench. Thereafter, finally when the matter came for hearing on 09th July, 2025, the Ld. DR stated that he was unable to come up with any such report from the AO. It was, therefore, considered fit to grant no more opportunity to the Department to make its submission on this factual aspect considering the fact that several opportunities had already been granted.

8. In the light of the above, it stands, as a matter of fact, on record that M/s. Kabra & Co. is the proprietorship concern of the assessee's HUF and not proprietorship concern of the assessee in his individual capacity. This fact has been acknowledged by the AO in the assessment order passed in the case of the assessee for A.Y. 2019-20 after making due verification from the bank itself on issuing notice u/s.133(6) of the Act. We have also noted that the assessee in the said case in A.Y. 2019-20 had submitted a letter from the Bank acknowledging its mistake of having linked the PAN no. of the assessee in his individual capacity to the bank account of the M/s. Kabra & Co., when actually it was the proprietorship concern of the assessee's HUF and the PAN no. of the assessee HUF ought to have been assigned to the said bank

account. The Department in the present case has failed to controvert the aforesaid fact before us despite ample opportunity given during the course of hearing before us. In the light of the same, we are inclined to agree with the Ld. Counsel for the assessee that the addition made in the hands of the assessee in all the four years do not pertain to the assessee but to the assessee's HUF, which was the proprietorship concern of M/s. Kabra & Co. and in whose bank account i.e. in the bank account of the Kabra & Co. the alleged accommodation entry had been received as per the information available with the Department.

9. In view of the above, the addition made in the hands of the assessee in all four years, i.e A.Y 2014-15 to A.Y 2017-18, amounting to Rs.17,16,95,541/-, Rs.18,86,73,700/-, Rs.24,65,97,112/- & Rs.15,29,66,545/-; respectively, is directed to be deleted.

10. In the result, all four appeals filed by the assessee are allowed as above.

This Order pronounced on 03/09/2025

Sd/-

(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

Ahmedabad; Dated 03/09/2025

S. K. SINHA

True Copy

आदेश की प्रतिलिपि अद्येषित/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, अहमदाबाद / DR, ITAT, Ahmedabad

Sd/-

(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad