

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ "ए", अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
" A " BENCH, AHMEDABAD

श्री संजय गर्ग, न्यायिक सदस्य एवं
श्री नरेन्द्र प्रसाद सिन्हा, लेखा सदस्य के समक्ष।

Before Shri Sanjay Garg, Judicial Member And
Shri Narendra Prasad Sinha, Accountant Member

आयकर अपील सं./ITA Nos.853/Ahd/2025 & 854/Ahd/2025
निर्धारण वर्ष /Assessment Years : 2016-17 & 2017-18 respectively

Ramesh Babulal Patel C/o. Gayatri Industries, 271, GIDC Phase-2 Mehsana - 384 002	<u>बनाम/</u> <u>v/s.</u>	The ITO Ward-1 Mehsana - 384 002
स्थायी लेखा सं./PAN: AHHPP 4902 E		
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
Assessee by :	Shri Jinesh Shah, AR	
Revenue by :	Shri Alpesh Parmar, CIT-DR	

सुनवाई की तारीख/Date of Hearing : 04/09/2025
घोषणा की तारीख /Date of Pronouncement: 08/09/2025

आदेश/ORDER

Per Sanjay Garg, Judicial Member:

The captioned appeals have been preferred by the assessee against the separate orders of the Commissioner of Income Tax (Appeal), National Faceless Appeal Centre, Delhi [hereinafter referred to as 'CIT(A)'] dated 23/08/2024 & 24/08/2024 passed u/s.250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for the Assessment Years (AYs) 2016-17 and 2017-2018 respectively. Since common facts and issues are involved in both the appeals, these were heard together and are being disposed of by this consolidated order. Assessee's appeal in ITA No.853/ Ahd/2025 for AY 2016-17 is taken as a lead case for the purpose of narration of facts.

ITA No.853/Ahd/2025 for AY 2016-17

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

"1. The addition made of Rs. 419,11,09,859/- u/s 68 of the Act in hands of appellant represents the transactions carried out by the partnership firm M/s Capital Traders wherein appellant was one of the partners and which got dissolved after the end of F.Y. 2015-16. Therefore, no income of appellant can be said to have escaped assessment in respect of the said transactions and therefore, the initiation of proceeding u/s 148 of the Act and consequent addition u/s 68 of the Act in case of appellant are invalid.

2. Ld. CIT(A) (NFAC) erred in confirming the addition of Rs. 419,11,09,859/- made in hands of appellant by the AO (NFAC) u/s 68 of the I.T. Act.

3. Ld. CIT(A) erred in confirming the said addition of Rs. 419,11,09,859/- made u/s 68 of the Act despite the fact that the said amount represented the sales made by M/s Capital Traders to Orange Tradex Pvt. Ltd. and Krish Enterprise and therefore, the same already formed part of sales income in the books of accounts and return of income of M/s Capital Traders. Therefore, the said amount had already been subject to payment of tax thereon for the year under consideration and thus addition thereof u/s 68 of the Act has resulted in double addition.

4. Ld. CIT(A) erred in law, on facts and acted against the principle of natural justice in holding that the appellant did not provide any clarification regarding the nature and source of this credit despite the fact that the signed confirmations of both Orange Tradex Pvt. Ltd. and Krish Enterprise along with the Audited Books of Account and Tax Audit Report of dissolved partnership firm M/s Capital Traders were duly submitted before the Id. CIT(A) proving that the concerned credit of Rs. 419,11,09,859/- was in respect of sales made by the said firm to the said entities.

5. Ld. CIT(A) erred in law and on facts in confirming the said addition of Rs. 419,11,09,859/- representing the sales transactions without doubting genuineness of any part of purchase.

6. The Appellant reserves the right to add, alter, amend and withdraw any of the above grounds of appeal."

3. The brief facts of the case are that the assessee is engaged in bulk trading in the chemical business. The Assessing Officer (AO) received the information that there were huge inward credits immediately followed by outward debit transfers. However, the amount of debit and credit entries was almost equal. The AO further made enquiry in this respect and observed that

the assessee was one of the entities who had paid or received amounts from M/s.Krrish Enterprise and M/s.Orange Tradex Pvt.Ltd. He further noted that the said concerns, M/s.Orange Tradex Pvt.Ltd. and M/s.Krrish Enterprise were mere paper concerns, who were involved in providing unaccounted money/accommodation entries to other parties.. As per information available to the AO, the assessee had received/paid an amount of Rs.4,19,11,09,859/- from M/s.Orange Tradex Pvt.Ltd. during the Financial Year (FY) 2015-16 relevant to assessment year under consideration. The AO reopened the assessment of the assessee and asked the assessee to furnish the details relating to the receipt of said amount. However, the assessee during the assessment proceedings, remained non-complainant and did not furnish the required details as called for by the AO. The AO, therefore, proceeded to pass the assessment order on the basis of material available on record/best judgement assessment u/s.147 r.w.s.144 and 144B of the Act.

4. Being aggrieved by the order of the AO, the assessee preferred appeal before the Ld.CIT(A).

5. During the appellate proceedings, the assessee furnished certain documents and additional details and pleaded that the assessee was a partner in the partnership-firm, namely M/s.Capital Traders, which since has been converted into proprietary-concern of the assessee. That the accounts of the said partnership-firm were audited u/s.44AB of the Act. That the said partnership-firm had duly filed its return of income. That the said partnership-firm had made purchases from M/s.Orange Tradex Pvt.Ltd. and not by the assessee in his individual capacity. That the assessee in individual capacity had not made any transaction with the said company during the AY 2016-17. The assessee also furnished certain additional evidences during the

appellate proceedings upon which the Ld.CIT(A) called for remand report from the AO. However, the Ld.AO reported that the details furnished by the assessee were inadequate. That the assessee had not furnished the details of bank accounts, etc. and that as per the report of Investigation Wing, the concerns, M/s.Krrish Enterprises and M/s.Orange Tradex Pvt.Ltd. were paper entities involved in giving accommodation entries. The Ld.CIT(A) considering the remand report as well as evidences available on the file, confirmed the addition made by the AO.

6. Being aggrieved by the order of the Ld.CIT(A), the assessee has come in appeal before us.

7. The appeal is time-barred by 174 days. A separate application for condonation of delay has been filed. The contents of the same are reproduced as under (extracted from AY 2017-18):

"I, Ramesh Babulal Patel aged about 43 years, residing at C/O Gayatri Industries, 271, GIDC Phase-2, Mehsana 384002, Gujarat, India, having PA No. AHHP4902E do hereby solemnly declare and state as under:

1. That, for A.Y. 2017-18, Ld. CIT(A) (NFAC) passed an order u/s 250 of the I.T. Act, 1961 on 24-08-2024 dismissing the appeal filed by me against the Assessment Order passed by the AO(NFAC) u/s 147 rws 144 of the I.T. Act on 22-03-2022 wherein addition of Rs. 153,65,13,864/- was made u/s 68 of the Act.

2. That appeal before Hon'ble Income Tax Appellate Tribunal, Ahmedabad has been filed against the above order passed by Ld. CIT(A) for A.Y. 2017-18 on 21-04-2025, hence there was a delay of 180 days in filing appeal.

3. That I did not have any legal consultant on immediate basis for the purpose of advising me on this matter and filing appeal before Your Honours and having regard to the quantum of addition, it took time for me to appoint the consultants for the said purpose. This resulted in a delay in filing the appeal.

4. That there was no intention to disregard the notice/ order, and the delay was inadvertent and unintentional consequent to the above discussed circumstances.

5. That having regard to the above circumstances which led to delay in filing the appeal for A.Y. 2017-18, I request your Honours to condone such delay and if such request is approved and appeal is admitted by your Honours, I assure that I & my legal representatives shall be fully cooperative in the appellate proceedings.

6. That this affidavit is made to submit with Hon'ble Income Tax Appellate Tribunal, Ahmedabad.

7. What is stated above is true and correct to the best of my knowledge and belief.
Declared on this 22nd day of April, 2025 at Ahmedabad.
Sd/-"

7.1. The Ld. Counsel for the assessee has submitted that the assessee has a fair case on merits that the assessee was not advised properly by his Legal Consultant and that is why the assessee could not furnish the requisite details before the Ld.CIT(A). That after passing of the order of the Ld.CIT(A), the assessee collected necessary details and evidences to prove his case and in that process, the aforesaid delay in filing the appeal has occurred. The Ld. Counsel for the assessee has submitted that the delay may be condoned. Apart from that, the assessee has also filed an application for admission of additional evidences and it has been submitted that the alleged transaction of the amount of Rs.4,19,11,09,859/- (AY 2016-17) was entered into by the partnership-firm of the assessee M/s.Capital Traders with M/s.Orange Tradex Pvt.Ltd. and M/s. Krrish Enterprise, which represented the sales made by the said firm to the said entities and that the sales made by the partnership-firm of the assessee were genuine sales. The Ld. Counsel for the assessee, in this respect, submitted various documents which could not be furnished before the Ld.CIT(A).

7.2. Considering the above submissions of the Ld. Counsel for the assessee, in our view, the interests of justice will be well served, if, the assessee is given an opportunity to present the case before the Ld.CIT(A) subject to payment

of costs. In view of this, the delay in filing the present appeal is hereby condoned subject to deposit of cost of Rs.5,000/- to the Prime Minister's National Relief Fund. The assessee will furnish the receipt/evidence of such deposit before the Ld.CIT(A). It is further directed that the matter is restored to the Ld.CIT(A) with a direction that after verification of deposit of cost amount, the Ld.CIT(A) will give opportunity to the assessee to furnish additional evidences. The Ld.CIT(A), if so deem fit, will call for remand report from the AO on the additional evidences, if any, furnished by the assessee, thereafter will decide the appeal of the assessee on merits by way of speaking order in accordance with law.

8. In the result, the appeal of the assessee in ITA No.853/Ahd/2025 for AY 2016-17 is treated as allowed for statistical purposes.

ITA No.854/Ahd/2025 for AY 2017-18

9. Since the facts and issues involved in this appeal are identical to that has been discussed as above in assessee's appeal for AY 2016-17 in ITA No.853/Ahd/2025. This appeal is also time-barred by 174 days. Considering the above submissions, in our view, the interests of justice will be well served, if the assessee is given an opportunity to present his case before the Ld.CIT(A), however, subject to deposit of cost of Rs.5,000/-, to the Prime Minister's National Relief Fund. The assessee will furnish the receipt/evidence of such deposit before the Ld.CIT(A). It is further directed that the matter is restored to the Ld.CIT(A) with a direction that after verification of deposit of cost amount, the Ld.CIT(A) will give opportunity to the assessee to furnish additional evidences. The Ld.CIT(A), if so deem fit, will call for remand report from the AO on the additional evidences, if any,

furnished by the assessee, thereafter will decide the appeal of the assessee on merits by way of speaking order in accordance with law.

10. In the result, both the appeals of the assessee are treated as allowed for statistical purposes.

Order pronounced in the Open Court on 08/09/2025.

**Sd/-
(Narendra Prasad Sinha)
Accountant Member**

**Sd/-
(Sanjay Garg)
Judicial Member**

अहमदाबाद/Ahmedabad, दिनांक/Dated 08/09/2025

टी. सी. नायर, व. नि. स. / T.C. NAIR, Sr. PS

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)- (NFAC), Delhi
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , अहमदाबाद/DR, ITAT, Ahmedabad.
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad