

आयकर अपीलीय अधिकरण,सूरत न्यायपीठ, सूरत ।
IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT
[conducted through Hybrid mode]

श्री संजय गर्ग, न्यायिक सदस्य एवं
श्री बिजयानन्दा प्रुसेथ, लेखा सदस्य के समक्ष।

Before Shri Sanjay Garg, Judicial Member And
Shri Bijayananda Pruseth, Accountant Member

आयकर अपील सं./ITA Nos.914/SRT/2024 & 797/SRT/2024
निर्धारण वर्ष /Assessment Years : 2015-16 & 2016-17

The ACIT Central Circle-3 Surat	बनाम/ v/s.	Shrinidhi Enterprize 6/1862, 63, Ground Floor Ghanshyam Bhuvan Bali Sheri, Mahidharpura Surat - 395 003
स्थायी लेखा सं./PAN:ACBFS 6484 R		
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
Assessee by :	Shri Rasesh Shah, CA	
Revenue by :	Shri Ravi Kant Gupta, CIT(DR) Shri Ajay Uke, Sr.DR	

सुनवाई की तारीख/Date of Hearing : 05/08/2025
घोषणा की तारीख /Date of Pronouncement: 23/09/2025

आदेश/O R D E R

Per Sanjay Garg, Judicial Member:

The captioned appeals have been preferred by the Revenue against the separate orders of the Commissioner of Income Tax (Appeals)-3, Surat, [hereinafter referred to as 'CIT(A)'] dated 28/06/2024 & 31/05/2024 for the Assessment Years (AYs) 2015-16 and 2016-17 respectively. Since both the

appeals are pertaining to same assessee, these were heard together and are being disposed of by this consolidated order.

First, we take up the Revenue's appeal in ITA No.914/SRT/2024 for AY 2015-16.

2. The brief facts of the case are that the assessee is a partnership-firm engaged in the business of real estate. The assessee filed its return of income under Section 139(1) of the Income Tax Act, 1961 (hereinafter referred to as "the Act") on 29.09.2015 declaring total income at Rs. 7,60,01,880/-. Subsequently, scrutiny assessment under Section 143(3) of the Act was completed on 20.12.2017 accepting the returned income. The case was reopened under Section 147 of the Act on the basis of information received from the Investigation Wing, Surat, revealing that searches and surveys under Sections 132 and 133A of the Act were carried out involving the group known as Sadhani Brothers. This group was found to be involved in providing accommodation entries by managing financial affairs of about 873 persons/entities, which included parties with whom the assessee had transactions for labour work contracts.

3. During the reassessment proceedings, the Assessing Officer (AO) observed that during the search and survey of Sadhani Brothers' premises, various incriminating documents and evidence linking the assessee with accommodation entries were found. The AO reproduced complete details of the labour contract transactions amounting to Rs.3,61,86,444/- with parties managed by the Sadhani Brothers. The AO noted various discrepancies such as that no bills for the labour expenses were furnished, only part of the

payments was made, many payments were outstanding, the contractors filed ITRs under Section 44AD of the Act declaring trading income instead of job work income, and affidavits from parties controlled by Sadhani Brothers stated they provided accommodation entries as unsecured loans and had no actual business transactions. Also, no machinery or assets existed with the contractors that would be necessary for providing labour work. The AO observed that the assessee had booked bogus labour expenditure through the aforesaid Sandhani brothers. He, however, considering that the assessee, being a real estate developer has also incurred the expenditure, hence initially in para 5.5 of the assessment order considered a 25% disallowance of expenditure as reasonable. The AO further examined the details of expenditure furnished by the assessee and noted that the assessee had claimed expenses relating to construction business to the tune of Rs.4,93,15,278/- in the name of persons/concerns of Sadhani Brothers. He also noted that the total labour contract expenses booked for the year were Rs.8,56,94,335/- on a turnover of Rs.53,23,05,670/- which he found reasonable. However, on verification of P&L A/c, he noted that during the year assessee's substantial business income was from developing and selling of plots and not constructed units. Further, the assessee had shown construction material expenditure of Rs. 8,11,32,937/-, whereas, the labour and contract charges were shown at Rs. 8,56,94,335/-. He observed that the labour and construction expenditure shown by the assessee was not commensurate with the cost of construction material. He observed that generally in construction business, labour expenses are about 1/3rd of material expenditure, but the assessee had booked the expenditure of Rs.8,56,94,335/- which was exaggerated and, hence, appeared to be bogus. He observed that though the payment of Rs.2.3 Lakhs each was shown to be

made to the contractor/labours, however, the TDS was not deducted and that the balance payment was shown outstanding. He, ultimately, disallowed the entire expenditure of Rs. 4,93,15,278/- shown to have been paid to the persons/entities controlled by Sandhani Group holding the same as bogus labour expenses, and additionally added Rs. 2,46,576/- as commission expenses presumed to have been paid by the assessee to Sadhani Brothers in obtaining the bogus accomodation entries. The assessee alternatively requested the AO to give telescopic benefit of disclosure of Rs.3.09 crores made during the course of survey proceedings. The AO, however, rejected the aforesaid claim of the assessee observing that during the survey proceedings statement of Shri Hiteshbhai B. Suthariya, working partner of the assessee was recorded on 03/02/2015, wherein, he clearly stated that the assessee-firm had earned Rs.3.09 crores as net profit from sale of all plots in Malhar Green City Project and the same was earned out of on-money receipts on selling of plots. He observed that the assessee cannot be given benefit of the bogus expenditure as the same had no relevancy with the on-money received by the assessee. He, therefore, rejected the claim of telescopic benefit and made the impugned additions.

4. Being aggrieved by the said order of the AO, the assessee preferred appeal before the Ld. CIT(A). The assessee apart from contesting the validity of the additions made by the AO on merits also raised the legal ground before the Ld. CIT(A) contesting the validity of the reopening of the assessment stating that since no entry operators had named the assessee as a beneficiary and that no incriminating documents were found during the search action against the assessee, hence, the reopening of assessment was done mechanically relying solely on third-party information without any

independent enquiry and without providing any any opportunity to the assessee to cross-examine those whose statements were relied upon.

5. The Ld. CIT(A), however, observed that the search and survey action at the premises of Sadhani Brothers revealed their engagement in providing accommodation entries to many entities, including those transacting with the assessee. That this amounted to sufficient material to form a reasonable belief that income had escaped assessment, and thus, he upheld the validity of the reopening of the assessment.

5.1. On merits, the assessee contended that a survey was also conducted at the assessee's business premises on 03.02.2015, at the end of the financial year. During the survey, books of accounts, business receipts, and expenses were verified. That the tentative P&L A/c was prepared based on regular books of account and a tentative net profit was arrived at Rs. 4,51,01,880/- after considering all receipts and expenses including labour expenses. Apart from that the assessee declared additional income of Rs. 3,09,00,000/- for unaccounted business transactions. The assessee filed return of income disclosing regular as well as additional income totalling to Rs.7,60,01,880/- (Rs.3.09crores + Rs.4.51 crores), which was accepted in the scrutiny assessment. It was argued that the material relied upon by the AO was only of labour contractors' bank statements, ITRs, and computations, with no direct incriminating evidence linking the assessee with accommodation entries. That no entry operator or contractor named the assessee as a beneficiary, and affidavits were similarly worded without evidence. Further that no opportunity to cross-examine the parties was provided during reassessment proceedings.

5.2. The CIT(A), after considering the submissions made by the assessee and going through the record, noted that the evidence relied upon (statements, affidavits, and financials) by the AO showed only a general modus operandi for accommodation entries without specific incriminating evidence against the assessee or a money trail linking payments back to the assessee. That the survey findings showed no discrepancy in labour payments or civil construction noted at the assessee's premises. The assessee had furnished detailed confirmations, ITRs, computations, bank statements, and deducted TDS on all payments, discharging the initial burden to prove genuineness of the transactions and expenditure.. The CIT(A) also noted that the AO's comparison of labour expenses against material expenses (ratio analysis) was an insufficient basis to disallow the entire labour expenses. He observed that the labour contractors were paid approximate cash of Rs.2.2 lakhs each by the assessee in parts till the date of survey and there was no material found during the survey indicating any returning of cash by the entry provider to the assessee. He further observed that the bills were raised by the labour contractors on 31/03/2015 and the TDS at the applicable rate was duly deducted and paid by the assessee. Further, that the remaining payment of Rs.35,96,851/- was made by the assessee through 'Account Payee Cheques' in the immediate subsequent year and there was no finding that any amount was withdrawn from the Bank accounts of the said labour contractors and given back to the assessee. That the fact of additonal income offered by the assessee during the survey was accepted and further that the survey assessment also confirmed that no evidence showing any bogus labour expenditure or any discrepancy in actual civil construction was noted during the survey action conducted at the premises of the assessee. He further observed that even it was also evident that the AO had not disputed

the fact that some expenses have actually been incurred by the assessee, therefore, initially in para-5.5 of the order, he stated that it would be justified and reasonable to consider disallowance of 25% of such expenditure. That the AO, however, disallowed the entire expenditure in subsequent part of the order. He observed that the AO had failed to appreciate the fact that the assessee was engaged in the real estate business involving sale of plots and also carrying out of civil construction work thereupon. He observed that the financial statements of the assessee clearly showed that the assessee had shown business receipts of Rs.13,61,07,670/- from sale of plots and civil construction receipts of Rs.39,61,98,000/-. He noted that there was substantial construction work carried out in the earlier year and the same was reflected under the opening WIP. That the assessee had furnished details showing that the material expenditure for the entire project was around 60.04% and the labour expenditure was 17.96% of the total turnover, which could not be considered to be abnormal. He, therefore, held that the ratio of labour to material expenses was not abnormal, and no contrary findings emerged during the survey.

5.3. The Ld.CIT(A) further found merits in the contention of the Ld. AR that the assessee had furnished the name, address, PAN of the contractors, their account confirmation, ITR, computation of income, balance-sheet, P&L A/c and even bank statement proving the said expenses. Moreover, TDS was also deducted on each payment. Even none of the affidavits relied upon by the AO referred to the name of the assessee as beneficiary. He further observed even the AO was also of the view that the expenditure has actually been incurred by the assessee and he could not point out discrepancy in the same.

5.4. The Ld.CIT(A) further noted that during the survey action at its premises, the assessee had already offered an addition income of Rs.3.09 crores over and above the regular income calculated in the books of account and, therefore, there was merit in the plea of the assessee that if there was any element of exaggeration of expenses that would be covered by the said additional income offered by the assessee and, hence, no further additions were warranted. He noted that the AO simply rejected the said plea of the assessee by stating that the additional income was offered in respect of sale of plots and not in respect of construction work. He noted that, in fact, the seized material, on the basis of which the additional income was offered, contained details of both sale of plots as well as construction activity undertaken by the assessee and the cash net profit of Rs.3.09 crores was noted on the same impounded page. He, therefore, held that the income surrendered during the survey proceedings has to be considered in respect of entire business transactions of the assessee. The Ld. CIT(A) considering that additional income of Rs. 3.09 crores was declared and accepted during the survey, held that even if there was some element of suppressed profit in the labour expenses, it was already subsumed in the surrendered income and no separate addition was necessary. The Ld. CIT(A) also deleted the addition of commission of Rs. 2,46,576/- for the same reasoning.

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

7. We have heard rival contention of both the Ld. Representatives of the parties and gone through the record.

7.1. We note that the Ld. CIT(A) has extensively discussed the facts and has rightly arrived at the conclusion that the additions made by the AO solely on the basis of generalized third-party statements and post-search affidavits cannot be held to be justified. The Ld. CIT(A) noted that such statements/affidavits only describe a general modus operandi but did not name the assessee or mention any transaction chain tracing funds from the assessee to entry providers and back in cash. The Ld. CIT(A) has also noted that even in the survey proceedings u/s 133A of the Act at the assessee's premises during the relevant year, the survey team examined books and expenses. The assessee drew a tentative P&L from regular books showing net profit after considering the impugned labour charges. The assessee surrendered Rs. 3.09 crore as additional business income, and the original scrutiny assessment post-survey accepted the returned income which incorporated this surrender, therefore, no further additions were warranted. Even the Ld. CIT(A) has categorically noted that there was no allegation that the expenditure booked by the assessee in comparison to its turnover was exaggerated. None of the expenditure incurred by the assessee was found to be non-genuine. Even the AO, himself, has noted that the assessee has furnished all the relevant evidences to prove the genuineness of the expenditure, however, considering the element of exaggeration, he initially proposed 25% disallowance of the expenditure. Even the Ld. CIT(A) has also discussed the financials of the assessee and noted that the assessee had been involved both in construction and sale of plots and further that the labour expenditure of the assessee was 17.96% of the total turnover, whereas, the material expenditure was around 60.04% of the entire project turnover. There was no discrepancy in the material consumed and labour expenditure. The Ld.CIT(A) rightly noted that even assuming that some element of

inflation existed, the surrender of Rs. 3.09 crores during survey, which was accepted in original scrutiny assessment, covered the same and telescoping of such expenditure has to be granted.

8. In view of the above discussion, we find no infirmity in the well-reasoned order of the Ld. CIT(A) deleting the addition of Rs. 4,93,15,278 on account of alleged bogus labour expenses and addition of Rs. 2,46,576 computed at 0.5% on the alleged accommodation entry. We accordingly affirm the order of the Ld. CIT(A).

9. In the result, the appeal of the Revenue in ITA No.914/SRT/2024 for AY 2015-16 is hereby dismissed.

Revenue's appeal in ITA No.797/SRT/2024 for AY 2016-17:

10. The Revenue in this appeal is aggrieved the action of the Ld.CIT(A) in deleting the addition of Rs.51,00,000/- made by the AO on account of unexplained cash credits along with addition of Rs.88,000/- being alleged commission expenditure incurred by the assessee in getting the aforesaid alleged accommodation entry of Rs.51,00,000/-.

11. The brief facts of the case are that on the basis of search and survey action carried out in the case of Sadhani Brothers, it was revealed that the said Sadhani Brothers were involved in providing accommodation entries to various parties. The AO on the basis of the said information, had a reason to believe that assessee had taken bogus loans from 16 parties in its books and, thus, the assessee's income to the tune of Rs.1,76,00,000/- had escaped assessment. He accordingly reopened the assessment of the assessee for the

year under consideration. During the assessment proceedings, the AO noted that from the Bank statement submitted by the assessee of the unsecured lenders, there was a pattern of repetitive transactions, i.e. one, two or three credit entries followed by debit entries to other concerns equivalent to the sum of the credit entries and that the same created shadow of doubt upon the genuineness of the transactions. He further noted that income of the lenders in the ITRs were nominal and even in the balance-sheet on the assets side only advances and cash in hand was shown. Though the assessee relied upon various documents to prove the identity, credit worthiness and genuineness of the transaction, however, the ld. AO held that the said Sadhani Brothers were involved in providing accommodation entries and that the unsecured loans shown by the assessee were not genuine. The Ld.AO, therefore, held that the assessee had received bogus unsecured loan of Rs.1,76,00,000/-. He, however, noted that the assessee had already offered Rs.1,25,00,000/- in IDS-2016 (Income Disclosure Scheme) as cash/receivables. He gave the telescopic benefit of the aforesaid declared amount to the extent of Rs.1,25,00,000/- and made the addition of the remaining amount of Rs.51,00,000/- towards unsecured loans treating the same as bogus and further of Rs.88,000/- on account of the alleged commission paid in obtaining the accommodation entry of unsecured loans.

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

13. The Ld.CIT(A) noted that the assessee had produced the relevant details of the lenders before the AO viz. the name and address of the lenders, PAN, confirmation of account, bank statement evidencing receipt of fund showing that the said parties were assessed to income-tax. However, the AO

summarily rejected the said evidences furnished by the assessee. The Ld.CIT(A) further noted that the entire alleged unsecured loans stand fully repaid in the subsequent year which justified the genuineness of the transactions and that there was no creation of capital in the hands of the assessee. The Ld.CIT(A) relied upon the decision of Hon'ble Jurisdictional High Court in the case of 'DCIT vs. Rohini Builders' reported in 265 ITR 360 (Guj.), wherein, it has been held that when the assessee furnishes complete address of all the creditors along with PAN and files confirmation along with copies of assessment order passed in the case of individual creditors, and copies of returns filed by the creditors and also proved the capacity of creditors by showing that the amounts were received by 'Account Payee Cheques', the addition u/s 68 of the Act was not warranted. The Ld. CIT(A) further observed that the said Sadhani Brothers did not name the assessee as beneficiary of the bogus unsecured loans. Noting that the assessee has repaid the entire loans in the subsequent year and further there were no evidence on the file that the loans obtained by the assessee were bogus except the bald report of the Investigation Wing and further noting that there was no correlating cash deposits in the bank accounts of the lenders, the Ld. CIT(A) deleted the addition so made by the AO.

14. Aggrieved by the said order of the Ld. CIT(A), the Revenue has come in appeal before us.

15. After considering the rival contentions of both the Ld. Representatives of the parties and after going through the record, we do not find any infirmity in the well-reasoned order of the Ld. CIT(A). The Ld. CIT(A) has categorically noted that the assessee had duly furnished the requisite evidence to prove the identity and creditworthiness of the creditors and

genuineness of the transactions. The Ld. CIT(A) has also noted that there was no cash deposits in the accounts of the lenders before advancement of loan to the assessee. All the transactions were done through banking channels. The loans were repaid in the subsequent financial year. Further that the said Sadhani Brothers, in their statement, did not mention the assessee as beneficiary of any bogus unsecured loan transaction. The Ld. Counsel for the assessee also relied upon the decision of the Co-ordinate Surat Bench of the Tribunal in the case of 'ACIT vs. Bharat Kanijbhai Kakadiya', ITA No.391/SRT/2023 and ITA No.312/SRT/2023, vide common order dated 24/03/2025, wherein also the addition was made by the AO on account of unsecured loans from the concerns of Sadhani Brothers, discovered during the course of search action upon the premises of Sadhani Brothers. The Co-ordinate Surat Bench in almost identical facts and circumstances has upheld the action of the Ld. CIT(A) in deleting the addition of unsecured loans, wherein such loans were repaid in subsequent financial year. Considering the totality of the facts and circumstances of the case and the case-laws relied upon by the Ld. AR of the assessee, we do not find any infirmity in the order of the Ld. CIT(A) and the same is hereby upheld. There is no merit in the appeal of the Revenue and the same is hereby dismissed.

16. In the result, both the appeals of the Revenue are, hereby, dismissed.

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 23/09/2025.

Sd/-
(Bijayananda Pruseth)
Accountant Member

Sd/-
(Sanjay Garg)
Judicial Member

दिनांक/Dated 23/09/2025

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)-3, Surat
5. विभागीय प्रतिनिधि,आयकर अपीलीय अधिकरण ,सूरत /AR,ITAT, Surat/Ahmedabad.
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

स
हायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, ITAT,Surat/Ahmedabad