

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

आयकरअपीलसं./ITA No.950/SRT/2024

Assessment Year: 2016-17

(Hybrid hearing)

Kantibhai Dhirubhai Gajera 12, Gandhivihar Society, L H Road, Varachha, Surat- 395 006	बनाम/ Vs.	Income Tax Officer, Ward-3(3)(1), Surat, Aayakar Bhawan, Majura Gate, Surat-395 001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: ADOPG3063E		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारितीकीओरसे/Appellant by	Shri Sapnesh R. Seth, CA
राजस्वकीओरसे /Respondent by	Shri Ajay Uke, Sr. DR
सुनवाई की तारीख/Date of Hearing	23/07/2025
उद्घोषणा की तारीख/Date of Pronouncement	26/09/2025

**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 30.08.2024 by the National Faceless Appeal Centre, Delhi/Commissioner of Income-tax (Appeals) [in short, 'Ld. 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. 143(3) of the Act on 29.12.2018.

2. Grounds of appeal raised by the assessee are as under:

1. *On the facts and in the circumstances of the case as well as law on the subject, the Ld. CIT(A), NFAC has erred in confirming the action of AO in*

*making addition u/s.69 of the Act of Rs.98,29,500/- as unexplained investment.*

2. *On the facts and circumstances of the case as well as the law on the subject, the Ld. CIT(A), NFAC, has erred in confirming the addition as above although assessee has filed complete documentary evidences of all the lenders & clearly discharged the burden cast on it u/s.69 of the Act.*
3. *It is, therefore, prayed that above addition made by AO and confirmed by CIT(A) may please be deleted.*
4. *Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal.*

3. Facts of the case in brief are that the assessee has filed his return of income on 31.01.2017 declaring total income at Rs.5,31,100/-. The case was selected under CASS for limited scrutiny assessment. The issue involved in the case was “whether investment and income relating to properties are duly disclosed” with the reason description being “large investment in property as compared to total income and total income including exempt income and agricultural income”. In compliance to the notices issued by AO, details were filed by the assessee from time to time. It was noticed that during the relevant period, assessee had purchased two immovable properties *i.e.*, (i) being land situated at Agriculture land, Kosamda, Taluka – Kamrej, survey No. 35, Block No. 42 and registered with Sub-Registrar Kamrej for document value of Rs.4,55,10,150/- on 08.07.2015. As per the submission, the assessee paid amount of Rs.48,22,350/- (Rs.45,51,015/- plus legal, registration and stamp duty expenses and (ii) land being situated at Agriculture land, Simada, Tal.

Puna, Survey no. 71/1, Block No. 105 and registered with Sub-Registrar Rander for document value of Rs.3,15,00,000 on 20.10.2015. As per the submission, the assessee had paid an amount of Rs.50,07,150/- (Rs.47,25,000/- plus legal, registration and stamp duty expenses). On further verification of the ITR and submission filed, it was noted that the assessee's income profile did not support the huge investment of Rs.98,29,500/- required for purchase of the immovable properties. In absence of proper clarification, the total fund of Rs.98,29,500/- utilized for the purchase of property was liable to be treated as unexplained investment. Therefore, assessee was requested to furnish the details regarding the source of funds for purchase of immovable properties, vide statutory and show cause notices. In compliance, assessee submitted that funds for the purchase of immovable properties were sourced out of unsecured loans taken from relatives and HUF. The assessee provided copies of confirmation of bank statement and copy of ITR – V, computation of income, capital account, profit and loss account and balance-sheet of the lenders, in the support of unsecured loans received by him. On perusal of the same, it was noticed by the AO that the lenders have received RTGS/credit entries in their bank accounts before giving loan and further no major transactions were found except aforesaid RTGS/credit entries and cheques given to the assessee. The AO held that claim of the assessee that lenders have enough funds to advance him loan was not acceptable, i.e., creditworthiness of the lenders was not proved. It was concluded by the AO that since explanation

offered by the assessee about the nature and source of investment in aforementioned immovable properties was not acceptable; therefore, he failed to discharge the burden of proof to substantiate the source from which investment had been made. Therefore, addition of Rs.98,29,500/- was made to the total income of the assessee for AY 2016-17 u/s.69 of the Act. Assessment order u/s.143(3) of the Act was passed on 29.12.2018 determining total income at Rs.1,03,60,600/-.

4. Aggrieved by the aforesaid assessment order dated 29.12.2018, assessee preferred appeal before CIT(A). CIT(A) observed that both during the assessment as well as appellate proceedings, the assessee failed to substantiate the creditworthiness of the lenders with proper details and documents; therefore, in absence of proper documentary evidences, the addition made by the AO was fully justified. The appeal of the assessee was dismissed by the CIT(A).

5. Further, aggrieved by the order of the CIT(A), the assessee has filed present appeal before the Tribunal. The Ld. AR of the assessee filed a paper book containing copies of submissions furnished before CIT(A), copies of replies filed before AO, copy of ITR and computation of income, account confirmation, bank statements and financial statement of the lenders. In addition to this, assessee has also furnished copy of ledger account and bank statements of lenders, evidencing repayment of loans. Regarding the observation made by AO that the lenders have received RTGS/credit entries in

their bank accounts before giving loan and further no major transactions were found except aforesaid transactions, the Ld. AR submitted that merely because there was credit entry in the bank statement of lender, it does not lead to the conclusion that loan is not genuine as it is not at all necessary for any person to keep entire funds in bank only. It is quite obvious that any prudent person will park their funds in various assets and will call back the funds when need arises. It is obvious that if lenders intend to give loan to assessee, they will have to bring back the funds in their bank account and thereafter give loan to the assessee. It is also stated by the Ld. AR that all the lenders have filed their ROI and, thus, the source of funds given to assessee may be independently verified in their own individual cases.

5.1 The Ld. AR further contended that regarding the source of investment in property acquisition, the assessee had furnished all pertinent evidence, including contra confirmations from lenders, ITRs, computation, profit and loss account, capital account, balance-sheet and bank statements of all lenders. The assessee had furnished cogent evidences to explain the source of deposits/funds in his case and that he cannot further be burdened to prove the source of source, i.e. source of deposit in the bank account of depositor prior to giving loans to the appellant. The Ld. AR also stated that there is no denial of the fact that all the depositors were assessed to tax, loans had been taken through banking channels and further the fact that loans were given to the assessee by various depositors were also reflected in their respective

balance sheets. Hence, there cannot be any doubt regarding the genuineness of the transactions.

5.2 The Ld. AR further stated that the funds so raised by the assessee to make investment in property via unsecured loans were subsequently repaid in due course of time. A.R. furnished copies of ledger accounts and bank statements of the lenders evidence the repayment of loans. AR relied on the decision of Hon'ble jurisdictional High Court in the cases of (i) CIT vs. Ayachi Chandrashekhar Narsangji 42 taxmann.com 251 (Guj) and (ii) PCIT vs. Ambe Tradecorp (P.) Ltd. [2022] 145 taxmann.com 27 (Gujarat) and on the decision of this Tribunal in the case of Rajhans Construction Pvt. Ltd. vs. ACIT [2022] 140 taxmann.com 370 (Surat Trib.), *wherein* it was held that where assessee availed unsecured loan from an entity and repaid the same within short span of time along with interest, AO was not justified in making addition under section 68 in respect of said loan.

5.3 The Ld. AR submitted that looking to the facts and circumstances of the case, the addition of Rs.98,29,500/- made to the total income of the assessee for AY 2016-17 u/s.69 of the Act may be directed to be deleted. In support of contentions raised by him, Ld. AR relied on following case laws: (a) DCIT vs. Rohini Builders – 127 Taxman 523 (Guj.), (b) CIT vs. Ranchod Jivabhai Nakhava – 21 taxmann.com 159 (Guj.), (c) PCIT (Central) Ahd vs. Ganesh Plantation Ltd. – 134 taxmann.com 149 (Guj) and (d) CIT vs. Ayachi Chandrashekhar Narsangi – 42 taxmann.com 252 (Guj.)

6. On the other hand, Ld. Sr. DR for the Revenue supported the order of the lower authorities and submitted that the creditworthiness of the lenders was not established as the bank accounts of the lenders showed no major activity and the funds appeared to have been routed for the purpose of giving loans to the assessee. He, therefore, prayed that order of CIT(A) be sustained.

7. We have heard both the parties and perused the materials on record. We have also deliberated the decisions relied on by Ld. AR for the appellant. The core issue involved in this appeal is whether the investment of Rs.98,29,500/- made by the assessee in two properties can be treated as unexplained merely because the AO was not satisfied with the source of funds in the hands of the lenders. From the records, it is evident that the assessee has furnished confirmation letters from all lenders; proved the identity and PAN of each lender; submitted ITRs, computation of income, capital account, and balance sheet of lenders; demonstrated that the loans were routed through normal banking channels; filed ledger accounts and bank statements evidencing repayment of the loans.

7.1 The AO's primary objection is that some of the lenders received credit entries shortly before transferring the funds to the assessee, and, hence, their creditworthiness is doubted. There is no dispute that all lenders are relatives of the assessee. However, as rightly argued by the appellant once the identity of the lenders is established, the genuineness of the transaction is supported

by banking records and the loans are duly repaid, the burden on the assessee u/s 68 or 69 of the Act stands discharged.

7.2 It is settled law that the assessee cannot be expected to prove the source of source, especially when the lenders are income-tax assesseees and they have disclosed the said transactions in their books of account. The Hon'ble Gujarat High Court in Rohini Builders (supra) and Ranchhod Jivabhai Nakhava (supra) has laid down the principle that the assessee cannot be expected to prove genuineness of the cash deposited in bank accounts of creditors, because under law, assessee can be asked to prove source of credits in its books of account but not source of source. Moreover, the fact that loans were repaid by the assessee in subsequent periods further supports the genuineness of the transactions. This was a key factor in the decisions in favour of appellant in cases of Ambe Tradecorp (P) Ltd. (supra) and Rajhans Construction Pvt. Ltd. (supra). Since the fact of repayment of loans is undisputed, the case of the appellant is covered by the decisions relied upon by Ld. AR of the assessee.

7.3 In view of the above discussions, we are of the considered opinion that the assessee has adequately; (i) proved the identity of the lenders; (ii) proved the genuineness of the loan transactions through banking records; (iii) demonstrated repayment of the loans; and (iv) filed sufficient documentary evidences before the AO and CIT(A). Hence, the addition of Rs.98,29,500/- made by the AO u/s 69 of the Act and sustained by the CIT(A) is not sustainable

in law and is liable to be deleted. Accordingly, the AO is directed to delete the same. The ground Nos. 1 and 2 are accordingly allowed.

8. In the result, appeal of the assessee is allowed.

Order pronounced in accordance with Rule 34 of ITAT Rules, 1963 on  
26/09/2025 in the open court.

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

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

सूरत /Surat

दिनांक/ Date: 26/09/2025

Dkp Outsourcing Sr.P.S\*

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 अधिकरण, सूरत