

**IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH "SMC" SURAT**

**BEFORE SHRI SANDEEP GOSAIN (JUDICIAL MEMBER)
AND
SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)**

**ITA No. 636/SRT/2025
Assessment Year: 2009-2010**

Sanjay Sivabhagwan Keyal
Flat No.304, 3rd Floor,
Vatika Township, Near Model,
Township, Parvat Patia
Surat - 395010.

Vs.

ITO, Ward – 2(3)(4),
Room No.613,
Aaaykar Bhavan,
Majura Gate,
Surat - 395002.

PAN NO. ADSPK 6097N

Appellant

Respondent

Assessee by : Mr. Rasesh, CA
Revenue by : Shri J.K. Chandnani, Sr. DR

Date of Hearing : 09/10/2025
Date of pronouncement : 30/10/2025

ORDER

PER OM PRAKASH KANT, AM

This appeal by the assessee is directed against order dated 28/03/2025 passed by the learned additional/joint Commissioner of income-tax (Appeals)-11, Delhi [hereafter shall be referred as Ld. CIT(A)] for assessment year 2009-10, raising following grounds:

"1. On the facts and circumstances of the case as well as law on the subject, assessing officer has erred in issuing notice u/s. 148 and passing assessment order u/s.144 r.w.s. 147 of the Act.



2. *On the facts and circumstances of the case as well as law on the subject, the Ld. CIT(A) has erred in partly confirming the action of the assessing officer by sustaining addition of Rs. 13,49,835/- out of total addition of Rs. 13,91,940/- u/s. 69A on account of unexplained cash credit.*

3. *It is prayed that the assessment framed u/s. 144 r.w.s. 147 may please be quashed and / or addition made by the assessing officer may please be deleted.”*

2. Briefly stated, the facts of the case, as emerging from the record, are that the assessee filed his return of income for the assessment year under consideration on 29.03.2010. Subsequently, upon verification of the Annual Information Return (AIR), the learned Assessing Officer discerned that during the financial year 2008-09, relevant to the assessment year in question, the assessee had deposited cash aggregating to ₹13,49,835/- in a savings bank account maintained with Axis Bank. The source of such cash deposit, however, appeared inconsistent with the particulars disclosed in the return of income.

2.1 Being so satisfied, the Assessing Officer recorded reasons to believe that income chargeable to tax had escaped assessment and, accordingly, issued notice under section 148 of the Income-tax Act, 1961 (hereinafter referred to as “the Act”) on 31.03.2016, duly served upon the assessee. In response, the assessee intimated that the original return filed be treated as one filed in response to the notice under section 148 of the Act.



2.2 During the reassessment proceedings, the Assessing Officer, invoking his statutory powers under section 133(6) of the Act, procured the bank statement directly from the Axis Bank. It was noticed there from that the aggregate of credit entries appearing in the said account amounted to ₹13,91,936/-. Repeated notices under section 142(1) were issued to the assessee calling upon him to explain the nature and source of the said deposits; however, the assessee chose not to respond. A final show cause notice dated 10.08.2016 also met with no compliance. The Assessing Officer, therefore, was constrained to complete the reassessment under section 147 read with section 144 of the Act on 30.09.2016, bringing to tax the entire cash deposit of ₹13,91,936/- as unexplained credits.

3. In appeal, the assessee contended before the learned Commissioner of Income-tax (Appeals) ["Ld. CIT(A)"] that he had not received the statutory notices, and therefore could not respond. The assessee challenged validity of the reassessment on the ground that the savings bank account in question had been duly considered while filing the return. The assessee submitted that he was regularly assessed since A.Y. 2006-07 under presumptive provisions of section 44AF, and it was submitted that cash deposits were made by the assessee out of cash sales of his regular business activity of trading of laser dyed textile, opening cash balance and cash withdrawals made during the year. It was submitted that



learned Assessing Officer only considered the cash deposits but he failed to considered cash withdrawals made from the same bank account. The assessee further explained that he had deposited Rs. 13,49,835/-and not ₹ 13,91,460/- as claimed by the Assessing Officer. He further submitted that cash deposited of ₹ 13,49,835/- comprised of ₹ 7,93,652/-on account of cash sales of his business activity, ₹ 5,56,183/-was re-deposited out of the withdrawal made of ₹ 12,80,400/-during the year.

3.1. The learned CIT(A) sought a remand report. The Assessing Officer, in his report, rejected the assessee's explanation observing that (i) the gross sales of ₹8,35,652/- declared could not justify deposits of ₹13,91,936/-, and (ii) the redeposit of withdrawn cash, absent any demonstrated necessity or specific purpose or nexus, could not be accepted.

3.2. Upon consideration, the Ld. CIT(A) dismissed the challenge both to the validity of reassessment and to the addition on merits. Hence, the present appeal before us.

4. Before us the learned counsel for the assessee filed a paperbook containing pages 1-30 and also filed a compilation of judicial precedents relied upon.

5. The Ground Nos.1 and 3 of the appeal pertain to reassessment proceeding challenged by the assessee. The learned counsel for the



assessee, while assailing the reassessment, contended that the same was a mere change of opinion and devoid of any live nexus between the material relied upon and the formation of belief. Reliance was placed upon the decision of the Hon'ble Supreme Court in *ITO v. Lakhmani Mewal Das* [(1976) 103 ITR 437 (SC)]. The learned counsel also relied on decisions of the coordinate bench of Tribunal in the case of *Bir Bahadur Singh Sijwani* (2015) 53 taxmann.com 366, *Smt Sapna Chauhan* (ITA No. 137 & 138/Ag/2018) ; *Ashish natvarlal Vashi* I ITA No. 3522/AHD/2016) and *Hashmukhbhai B Patel* (ITA No. 193/SRT/2019).

5.1 The learned Departmental Representative, per contra, supported the orders of the lower authorities, contending that the Assessing Officer had tangible material, namely AIR information, duly verified with the return of income, on the basis of which he had formed a bona fide belief that income had escaped assessment. Reliance was placed upon *ACIT v. Rajesh Jhaveri Stock Brokers (P) Ltd.* [(2007) 291 ITR 500 (SC)] and submitted that there was a material relevant to the case of the assessee and on that basis he has formed a requisite belief, and therefore, the reassessment have been validly initiated in the case of the assessee.

5.2 We have heard rival submission of the parties and perused the relevant material on record. Before us the assessee has not filed copy of the reasons recorded and referred only to the observation of



the Assessing Officer regarding the reopening. We find that Ld. CIT(A) has rejected the contention of the assessee observing as under:

“(a) First ground of appeal is regarding addition and assessment at Rs. 13,91,940/-. The appellant submitted that the appellant had filed his return of income declaring income at Rs. 1,46,260/- on 29.03.2010 for A.Y. 2009-10. The appellant is engaged in the business of textile trading during the year under consideration. The Ld. AO has erred in only considering the credits of the bank account and adding the same to the total income of the appellant. He ought to have considered cash withdrawals made from the bank account of the appellant while making an addition. This is in view of the fact that the appellant had made a total cash deposition of Rs. 13,49,835/- during Asstt. Year 2009-10 and had made a total cash withdrawal of Rs. 12,80,400/- during Asstt. Year 2009-10. It is also evident that each and every cash withdrawals has a corresponding cash deposition and the same ought to be considered before making any addition to the total income declared by the appellant. It is respectfully submitted that cash deposition made by the appellant in his savings bank account was out of cash sales made by the appellant from his regular business activities of textiles trading during the year under consideration. The cash deposition made by the appellant also includes cash generated out of business activities carried out by him during earlier years and various cash withdrawals made by him during the Asstt. Year 2009-10. The appellant also submitted the summary of cash book which is reproduced as under:

	Particulars	Amount (Rs.)
	Opening cash Balance as on 01.04.2008	51,360
Add	Cash sales receipts	7,93,652
	Cash withdrawals from bank a/c	1,28,04,00
	Total cash flow	21,25,412
Less	Cash deposit into bank account	13,49,835
	Cash purchase of goods	5,02,392
	Cash expenses	88,532
	Personal withdrawal	1,20,000



	Total Cash Flow	20,60,759
	Closing cash balance as on 31.03.2009	64,653

From the above facts it can be concluded that no income has escaped assessment and that the appellant had duly considered the above received cash sales receipts while filing his original return of income for Asstt. Year 2009-10.

The AO as per assessment order stated that it is clear that before re-opening the assessment for the year under assessment, the assessee was given an opportunity to clarify the position with regard to deposit of cash amounts in the savings bank account. From the statement of bank account No. 070010100261920 maintained with Axis Bank, Surat, it is noticed that there were substantial cash transactions in the above said bank account, which is not at all disclosed to the Department. Almost all the entries were of 'Cash Deposits'. On verification of the bank statement, it is observed that cash has been deposited on various dates and the said amount has been withdrawn either by cash withdrawal through ATM or through transfer or by clearing. However, the sources of cash deposits are not verifiable as the assessee has not furnished any details in this regard despite repeated opportunities being afforded to the assessee. The cash deposits as appearing in the above said bank account were reported in the AIR information. The source of the credits is neither explained nor disclosed by the assessee either in the return of income or during the course of assessment proceedings.

The explanation of the appellant and material available on records have been considered and I am of the opinion that the facts stated by the appellant are not sufficient. Hence, this explanation made by the appellant do not prove the genuineness and creditworthiness of the transaction. The appellant has also quoted the judicial judgments in support, but on verification, it is found that the facts of the case under consideration are different. Therefore, ground no. 1 of the appellant is dismissed."

5.3 It is observed that the Assessing Officer acted upon specific information emanating from the Annual Information Return furnished by the Axis Bank, indicating cash deposits by the assessee inconsistent with the income declared. Upon verification of the return, such inconsistency was confirmed. The material thus



constituted tangible evidence justifying the formation of belief of escapement of income. It is trite law that at the stage of recording reasons, the Assessing Officer is not required to establish escapement conclusively; it suffices if there exists a rational connection or live link between the material and the belief formed. The ratio of *Lakhmani Mewal Das* (supra), when applied to the facts before us, rather fortifies the validity of the reopening. We are thus constrained to observe that the plea of the assessee that the reopening was based on a mere change of opinion stands bereft of merit. The ratio in the other decision of the coordinate bench cited by the assessee are also considered but the reassessment has been validly initiated.

5.4 In the circumstances, we uphold the finding of the learned CIT(A) and hold that the reassessment proceedings were validly initiated. Grounds Nos. 1 and 3 of the appeal are dismissed.

6. The ground No. two of the appeal relates to addition on merit. The Ld. CIT(A) has rejected the contention of the assessee observing as under:

“c) The next ground of appeal is regarding the amount of cash deposits in Bank account. The appellant submitted that the actual cash deposit was Rs. 13,49,835/- and not Rs. 13,91,936/- as alleged by the Ld. AO. In this regard, it is found that the AO obtained a copy of Bank statement of Axis Bank, Surat by issuing notice u/s 133(6) of the Act. Hence, the difference comes to Rs. 42,101/-. In this regard, the AO is directed to verify this statement and tally the amount of cash deposits whether the actual amount is Rs. 13,49,835/- or Rs. 13,91,936/- and allow relief to the tune of Rs.



42,101/- if found correct. Grounds of appeal on this ground is allowed subject to verification.”

6.1 We have perused the relevant material on record and the submission of the parties on the issue in dispute, but we find ourselves unable to accede to the plea of the assessee.. The copy of the bank statement of the assessee is available on paperbook page 27 to 30. For ready reference said statement of bank is reproduced as under:

(27)

Page 1 of 4

[Print Statement (A/B)]

Sl. No.	Description	Date		Debit	Credit	Balance
		From	To			
1
2
3
4
5
6
7
8
9
10
11
12
13
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Sl. No.	Description	Debit	Credit	Balance
1	CASH AT THE BANK	60,00,000		2700
2	COMPLEX TEXT APPAREL	10,00,000		1000
3	COMPLEX TEXT APPAREL	10,00,000		1000
4	BY CASH		21,00,000	4000
5	COMPLEX TEXT APPAREL	10,00,000		1000
6	COMPLEX TEXT APPAREL	10,00,000		1000
7	BY CASH		20,00,000	4000
8	BY CASH		10,00,000	4400
9	COMPLEX TEXT APPAREL	10,00,000		1000
10	COMPLEX TEXT APPAREL	10,00,000		1000
11	BY CASH		20,00,000	4000
12	BY CASH		10,00,000	4000
13	COMPLEX TEXT APPAREL	10,00,000		1000
14	COMPLEX TEXT APPAREL	10,00,000		1000
15	BY CASH		20,00,000	4000
16	COMPLEX TEXT APPAREL	10,00,000		1000
17	COMPLEX TEXT APPAREL	10,00,000		1000
18	BY CASH		20,00,000	4000
19	COMPLEX TEXT APPAREL	10,00,000		1000
20	COMPLEX TEXT APPAREL	10,00,000		1000
21	BY CASH		20,00,000	4000
22	COMPLEX TEXT APPAREL	10,00,000		1000
23	COMPLEX TEXT APPAREL	10,00,000		1000
24	BY CASH		20,00,000	4000
25	COMPLEX TEXT APPAREL	10,00,000		1000
26	COMPLEX TEXT APPAREL	10,00,000		1000
27	BY CASH		20,00,000	4000
28	COMPLEX TEXT APPAREL	10,00,000		1000
29	COMPLEX TEXT APPAREL	10,00,000		1000
30	BY CASH		20,00,000	4000
31	COMPLEX TEXT APPAREL	10,00,000		1000
32	COMPLEX TEXT APPAREL	10,00,000		1000
33	BY CASH		20,00,000	4000
34	COMPLEX TEXT APPAREL	10,00,000		1000
35	COMPLEX TEXT APPAREL	10,00,000		1000
36	BY CASH		20,00,000	4000
37	COMPLEX TEXT APPAREL	10,00,000		1000
38	COMPLEX TEXT APPAREL	10,00,000		1000
39	BY CASH		20,00,000	4000
40	COMPLEX TEXT APPAREL	10,00,000		1000
41	COMPLEX TEXT APPAREL	10,00,000		1000
42	BY CASH		20,00,000	4000
43	COMPLEX TEXT APPAREL	10,00,000		1000
44	COMPLEX TEXT APPAREL	10,00,000		1000
45	BY CASH		20,00,000	4000
46	COMPLEX TEXT APPAREL	10,00,000		1000
47	COMPLEX TEXT APPAREL	10,00,000		1000
48	BY CASH		20,00,000	4000
49	COMPLEX TEXT APPAREL	10,00,000		1000
50	COMPLEX TEXT APPAREL	10,00,000		1000
51	BY CASH		20,00,000	4000
52	COMPLEX TEXT APPAREL	10,00,000		1000
53	COMPLEX TEXT APPAREL	10,00,000		1000
54	BY CASH		20,00,000	4000
55	COMPLEX TEXT APPAREL	10,00,000		1000
56	COMPLEX TEXT APPAREL	10,00,000		1000
57	BY CASH		20,00,000	4000
58	COMPLEX TEXT APPAREL	10,00,000		1000
59	COMPLEX TEXT APPAREL	10,00,000		1000
60	BY CASH		20,00,000	4000
61	COMPLEX TEXT APPAREL	10,00,000		1000
62	COMPLEX TEXT APPAREL	10,00,000		1000
63	BY CASH		20,00,000	4000
64	COMPLEX TEXT APPAREL	10,00,000		1000
65	COMPLEX TEXT APPAREL	10,00,000		1000
66	BY CASH		20,00,000	4000
67	COMPLEX TEXT APPAREL	10,00,000		1000
68	COMPLEX TEXT APPAREL	10,00,000		1000
69	BY CASH		20,00,000	4000
70	COMPLEX TEXT APPAREL	10,00,000		1000
71	COMPLEX TEXT APPAREL	10,00,000		1000
72	BY CASH		20,00,000	4000
73	COMPLEX TEXT APPAREL	10,00,000		1000
74	COMPLEX TEXT APPAREL	10,00,000		1000
75	BY CASH		20,00,000	4000
76	COMPLEX TEXT APPAREL	10,00,000		1000
77	COMPLEX TEXT APPAREL	10,00,000		1000
78	BY CASH		20,00,000	4000
79	COMPLEX TEXT APPAREL	10,00,000		1000
80	COMPLEX TEXT APPAREL	10,00,000		1000
81	BY CASH		20,00,000	4000
82	COMPLEX TEXT APPAREL	10,00,000		1000
83	COMPLEX TEXT APPAREL	10,00,000		1000
84	BY CASH		20,00,000	4000
85	COMPLEX TEXT APPAREL	10,00,000		1000
86	COMPLEX TEXT APPAREL	10,00,000		1000
87	BY CASH		20,00,000	4000
88	COMPLEX TEXT APPAREL	10,00,000		1000
89	COMPLEX TEXT APPAREL	10,00,000		1000
90	BY CASH		20,00,000	4000
91	COMPLEX TEXT APPAREL	10,00,000		1000
92	COMPLEX TEXT APPAREL	10,00,000		1000
93	BY CASH		20,00,000	4000
94	COMPLEX TEXT APPAREL	10,00,000		1000
95	COMPLEX TEXT APPAREL	10,00,000		1000
96	BY CASH		20,00,000	4000
97	COMPLEX TEXT APPAREL	10,00,000		1000
98	COMPLEX TEXT APPAREL	10,00,000		1000
99	BY CASH		20,00,000	4000
100	COMPLEX TEXT APPAREL	10,00,000		1000

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6.2 The pattern revealed by the bank statement is most telling. The deposits are made in small denominations, ranging between ₹1,000 and ₹40,000, on numerous occasions throughout the year, and are followed almost immediately — within a day or two — by corresponding withdrawals through the Automated Teller Machine located at “Millennium Textile.” Such a rhythmic and mechanical sequence of deposits and withdrawals bears the unmistakable imprint of a circuitous transaction and militates against the conduct expected of a genuine trading concern. The conduct of maintaining a savings account, as opposed to a current account which a prudent trader would normally employ for business operations, further erodes the credibility of the explanation tendered.

6.3 The Section 68, by its very design, casts an initial and imperative duty upon the assessee to explain, with cogent evidence, the nature and source of any sum found credited in his books or accounts. This duty is not a matter of form but of substance. The law, in its wisdom, presumes nothing in favour of the taxpayer where unrecorded cash flows are discerned; rather, it demands from him a candid and verifiable explanation consistent with ordinary human conduct and commercial probability.

6.4 In this connection, one may profitably refer to the exposition of the Hon’ble Supreme Court in *CIT v. P. Mohankala* [(2007) 291 ITR



278 (SC)], wherein it was held that the expression “the assessee offers no explanation or the explanation offered is not satisfactory in the opinion of the Assessing Officer” vests in the authority a quasi-judicial discretion, to be exercised upon objective material. Likewise, in *Sumati Dayal v. CIT* [(1995) 214 ITR 801 (SC)], the Apex Court enjoined that matters of apparent probability must be weighed not upon mechanical proof but upon the test of human conduct and surrounding circumstances. Applying those salutary principles, we find that the explanation of the assessee — that the cash deposits were derived from cash sales and withdrawals — is neither supported by any contemporaneous documentary evidence nor reconcilable with the pattern of banking transactions.

6.5 It is therefore incumbent upon the assessee, as one invoking the indulgence of the statute, to discharge the burden cast upon him by law. A mere assertion, unsupported by records, cannot satisfy the judicial conscience of this Tribunal. The explanation tendered is self-serving and fails to inspire confidence, being at variance with the realities of trade and the cadence of normal mercantile practice. We are constrained to observe that the transactions appear contrived to create a façade of business circulation where, in truth, none has been demonstrated.

6.6 The doctrine of presumption cannot operate in aid of one who has chosen to remain silent in the face of statutory notices and



who, having had ample opportunity, failed to produce a scintilla of corroboration. The conscience of this Tribunal cannot but reject an explanation resting on conjecture and convenience. We therefore uphold the finding of the learned Commissioner (Appeals) in sustaining the addition. The Ground No. 2 of the appeal of the assessee accordingly dismissed.

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

Order pronounced under Rule 34(4) of the ITAT Rules on 30/10/2025.

**Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER**

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

Dated: 30/10/2025
Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Surat
5. Guard file.

//True Copy//

BY ORDER,
(Assistant Registrar)
ITAT, Surat