

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ “B”, अहमदाबाद।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH, AHMEDABAD

BEFORE SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER  
AND  
SHRI MAKARAND V. MAHADEOKAR, ACCOUNTANT MEMBER

**I.T.A. No. 1378/Ahd/2025**  
**Asstt. Year: 2022-23**

Bhavin Girishbhai Shah, Plot No. 2169 Kvai Park, Avedavali Street, Bhavnagar-364002, Gujarat PAN: BFYPS0943C	Vs.	NFAC, Delhi Present jurisdiction, DCIT Circle 1(1) Bhavnagar
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(Applicant )		(Respondent)
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<b>Assessee by :</b>	Shri Vartik Choksi, A.R.
<b>Respondent by</b>	Shri Abhijit, Sr. DR

<b>Date of Hearing</b>	11.11.2025
<b>Date of Pronouncement</b>	18.11.2025

ORDER

**PER MAKARAND V. MAHADEOKAR, ACCOUNTANTMEMBER:**

This appeal by the assessee is directed against the order passed by the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter referred to as “CIT(A)”], dated 16.06.2025, for Assessment Year 2022-23, whereby the learned CIT(A) upheld the assessment framed by the Assessing Officer under section 143(3) read with section 147 of the Income-tax Act, 1961[hereinafter referred to as “the Act”] vide order dated 19.03.2024.

**Facts of the Case**

2. The assessee filed return of income on 21.10.2022 declaring total income of Rs. 58,62,070/-. The case was picked up for scrutiny. Consequential notices under section 142(1) and section 143(2) were issued from time to time which were responded to by the assessee through online submissions and by filing bank statements, ledger accounts and other documentary evidence.

3. During the course of assessment, the Assessing Officer noted from the bank account of the assessee that the assessee had made short term interest bearing advances in favour of three persons, namely, Mr. Asif Taherbhai, Piyush Tamboli HUF and Ms. Vishakha Piyush Tamboli, aggregating to Rs. 1,70,00,000/-. The Assessing Officer required the assessee to explain the source of the said advances. The assessee submitted details of bank statements, fund flow and ledger accounts to substantiate the explanation that the loans were given out of explained sources.

4. The Assessing Officer undertook an analysis of the bank account of the assessee. From the narration of various sweep-in and sweep-out entries and the corresponding debits and credits, the Assessing Officer formed a categorical finding that the impugned loans advanced to the three parties were funded out of amounts received from entities named M/s Sumeru Buildcon and Lucky Steel through an intermediary sweep account. The Assessing Officer observed that these funds were not recorded in the regular books of account of the assessee. Specific reference was made to transactions dated 22.03.2022, reflected in the bank extract, showing transfer of Rs. 1,20,00,000/- by instrument number 320727 to Mr. Asif Taherbhai, which according to the Assessing Officer, had been sourced out of sweep transactions of amounts received from M/s Sumeru Buildcon.

5. Similarly, the Assessing Officer recorded that the loans of Rs. 25,00,000/- each advanced to Piyush Tamboli HUF and to Ms. Vishakha Piyush Tamboli on 14.10.2021 and 18.10.2021 respectively, were directly traceable to amounts received from M/s Lucky Steel and transferred through the sweep mechanism. The Assessing Officer held that the said funds were not part of the regular books of account and were therefore unexplained and unaccounted money utilised for making the impugned advances. The Assessing Officer thus treated the sum of Rs. 1,70,00,000/- as unexplained investment under section 69 of the Act and brought the same to tax.

6. Aggrieved, the assessee preferred appeal before the learned CIT(A). After narrating the facts and the bank transactions relied upon by the Assessing Officer, the learned CIT(A) recorded that the Assessing Officer had undertaken a detailed matching of the bank entries and had established a proximate nexus between the funds received in the form of sweep-in credits from M/s Sumeru Buildcon and Lucky Steel and the loans advanced to the three parties. The learned CIT(A) referred to the specific dates and amounts showing that the availability of funds in the sweep account corresponded to the dates on which the loans were given. The learned CIT(A) held that despite being confronted with these findings, the assessee was unable to furnish any documentary evidence to rebut the conclusions drawn by the Assessing Officer. The learned CIT(A) observed that a vague and sweeping claim that the loans were sourced out of capital accumulated over the years was not supported by any material. The learned CIT(A) also noted that the fund flow statement prepared by the assessee during the appellate proceedings was inconsistent with reconstructed bank statements and did not explain the availability of funds. The learned CIT(A) therefore confirmed the finding of the Assessing Officer that the source of the loans remained unexplained to the

extent of Rs. 1,70,00,000/- and upheld the addition. The appeal of the assessee was accordingly dismissed by the learned CIT(A).

7. Aggrieved by the order of CIT(A), the assessee is in appeal before us raising following grounds:

1. *In law and in the facts and circumstances of the appellant's case, the order of the AO is void ab initio and without jurisdiction.*
2. *In law and in the facts and circumstances of the appellant's case, the CIT(A) has erred in upholding the addition made by the AO u/s 69 of the act amounting to Rs. 1,70,00,000/- although the appellant adequately explained the source of the amount from which the loan has been given.*
3. *The appellant craves leave to add to, alter, amend and or withdraw any ground or grounds of appeal either before or during the course of hearing of the appeal.*

8. During the course of hearing, the learned Authorised Representative(AR) reiterated the factual matrix and the documentary evidence which had been placed before the Assessing Officer as well as before the Commissioner of Income-tax (Appeals). The AR invited attention to the Paper Book filed before us and explained the contains. The paper book contained –

- i. Documents relating to Asif Taherbhai Khanbhai, including ITR for A.Y. 2022–23, bank statement highlighting transactions with the assessee, and ledger account in the assessee's books.
- ii. Documents relating to Piyush Tamboli HUF, including ledger account, ledger confirmation, and ITR for A.Y. 2022–23.
- iii. Documents relating to Vishakha Piyush Tamboli, including ITR for A.Y. 2022–23, ledger confirmation and ledger account in the assessee's books.
- iv. Copy of submissions filed before the CIT(A), fund flow statement, bank book supporting the fund flow, opening and closing balance sheets, tax audit report of M/s Sumeru Buildcon, and copy of bank certificate relating to auto-sweep facility.

9. The AR explained that all primary evidences supporting the availability of funds and the flow thereof had been submitted before the lower authorities. He submitted that the loans aggregating to Rs. 1,70,00,000/- were duly

accounted for in the books of account, and the bank statements placed in the Paper Book clearly established the source of funds out of the Bank of India Auto-sweep facility.

10. Upon pointed enquiry by the Bench regarding the Bank of India Auto-sweep Account, the AR produced a copy of the Auto-sweep statement. He admitted that this particular document had not been produced before either the Assessing Officer or the CIT(A). He submitted that the said statement conclusively corroborates the movement of funds leading to the issuance of the impugned loans and demonstrates that the impugned sums were sourced from accounted bank balances of the assessee.

11. The AR further submitted that all ledger accounts for the concerned parties had been regularly maintained and produced before the Assessing Officer, and therefore the addition sustained by the CIT(A) under section 69 was unjustified.

12. In response, the learned Departmental Representative (DR) submitted that the assessee had already placed the ledger accounts of the loan parties before the Assessing Officer during assessment proceedings. However, the newly produced Auto-sweep statement had not been examined by the Assessing Officer earlier. The learned DR stated that the source and nexus of the funds needed fresh factual verification by the AO after considering the additional evidence now produced, for the first time before the Tribunal.

13. The DR therefore requested that the matter be restored to the file of the Assessing Officer for verification of the complete documentary trail, including the Auto-sweep statement produced for the first time.

14. We have carefully considered the rival submissions and have perused the assessment order, the order of the Commissioner of Income Tax (Appeals), as well as the material placed on record. The Assessing Officer has proceeded to make the impugned addition on the premise that the unsecured loans advanced by the assessee during the relevant financial year were sourced from funds that, according to him, were either not recorded in the books of account or were falsely explained as being out of loan repayments received from identified parties.

15. The Assessing Officer first rejected the assessee's explanation that loan repayment of Rs. 1,50,50,000/- received from M/s Leela Buildcom and Infrastructure Pvt. Ltd. constituted the source for the unsecured loans advanced to Mr. Asif Taherbhai Khanbhai and to Ms. Vishakha Piyush Tamboli. The Assessing Officer has concluded in categorical terms that "it is concluded that assessee's claim regarding loan repayment received of Rs. 1,50,50,000/- from M/s Leela Buildcom & Infrastructure Pvt Ltd was utilised as a source to give unsecured loan to Mr. Asif Taherbhai Khanbhai and Vishakha Piyush Tamboli is totally false claim and misleading to department for evasion of tax." The Assessing Officer then examined the assessee's second explanation that the repayment of loan of Rs. 30,00,000/- received from M/s Sachdeva Steel was utilised to fund the loan of Rs. 25,00,000/- advanced to M/s Piyush Tamboli HUF. The Assessing Officer again recorded a finding that the said claim is "false and misleading". The basis of this conclusion is the factual finding noted by the Assessing Officer that the repayment of Rs. 30,70,200/- received from M/s Sachdeva Steel on 19.06.2021 was ultimately transferred to one Dilawarbhai H. Kaliwa on 21.06.2021 through an intermediary auto-sweep account. The Assessing Officer has therefore concluded that the claim that such repayment constituted the source of the loan to M/s Piyush Tamboli HUF was "totally false and misleading".

16. Having rejected both explanations, the Assessing Officer posed a further question as to the true source of funds utilised by the assessee for advancing the loans of Rs. 1,20,00,000/- to Mr. Asif Taherbhai Khanbhai, Rs. 25,00,000/- to M/s Piyush Tamboli HUF and Rs. 25,00,000/- to Ms. Vishakha Piyush Tamboli. The Assessing Officer has thereafter stated that, on “perusal” of the assessee’s bank statement, it is noted that the amount of Rs. 1,20,00,000/- advanced to Mr. Asif Taherbhai was sourced from funds received from M/s Sumeru Buildcon “through an intermediary sweep account”, which according to the Assessing Officer was not recorded in the books of the assessee. Likewise, the Assessing Officer has found that the loans of Rs. 25,00,000/- each advanced to M/s Piyush Tamboli HUF and Ms. Vishakha Piyush Tamboli were sourced from funds received from Lucky Steel, which were also allegedly not recorded in the books of account. The Assessing Officer has supported these observations by reproducing extracts from the bank statement and has concluded at the end of the discussion that “fund received from M/s Sumeru Buildcon and Lucky steel was not recorded in the books of the assessee as per documents submitted by the assessee during assessment proceedings”.

17. It is therefore evident that the entire edifice of the addition rests upon the factual presumption that the funds received from M/s Sumeru Buildcon and Lucky Steel, routed through the bank and sweep accounts, were not recorded in the books of account and therefore represented unexplained money or unexplained cash credit in the hands of the assessee.

18. On a careful consideration of the material placed before us, it emerges from the record that the assessee had, during the course of assessment proceedings, furnished the ledger accounts of all parties from whom loan repayments were stated to have been received. It is therefore not a case where

the Assessing Officer was deprived of the primary ledger records. The only component that was not available before the Assessing Officer was the complete Bank of India Auto-Sweep Account through which certain internal transfers and sweep-in/sweep-out movements had occurred. It is this Auto-Sweep Account which explains the routing of the funds forming the basis of the Assessing Officer's allegation that the receipts from M/s Sumeru Buildcon and Lucky Steel were not recorded in the books of the assessee.

19. The learned AR has now placed on record the complete Auto-Sweep Account along with corresponding ledger entries from the regular books of account to demonstrate that the impugned receipts were not only banked through the sweep mechanism but were also duly recorded in the books maintained in the ordinary course. These records directly address the very foundation on which the Assessing Officer concluded that the receipts were unrecorded. Since these sweep-account details were not before the Assessing Officer at the time of assessment, the factual matrix stands materially altered.

20. It is evident that the dispute is confined to a factual reconciliation between the entries appearing in the bank statements, the sweep account, and the ledger accounts. The core of the Assessing Officer's reasoning is the assumption that the sweep-account receipts from M/s Sumeru Buildcon and Lucky Steel were not accounted for. The documents now produced prima facie contradict this assumption by showing that the sweep movements correspond to entries in the assessee's books.

21. In our considered view, the matter requires a limited factual verification so as to reconcile the BOI Auto-Sweep Account with the ledger accounts already furnished during assessment. The AR has undertaken to produce all

supporting ledgers, bank statements and internal sweep registers before the Assessing Officer.

22. In these facts and considering that the very basis of the addition may not survive after verification of the sweep-account entries, we hold that the ends of justice would be met by restoring the matter to the file of the Assessing Officer for the limited purpose of reconciliation of the Auto-Sweep Account with the books of account. The Assessing Officer shall confine the enquiry to this aspect, shall afford adequate opportunity of hearing to the assessee, and shall thereafter pass a speaking order in accordance with law.

23. Accordingly, the appeal of the assessee is allowed for statistical purposes.

**This Order pronounced in Open Court on 18/11/2025**

**Sd/-**  
**(T.R. SENTHIL KUMAR)**  
**JUDICIAL MEMBER**  
Ahmedabad; Dated 18/11/2025

**Sd/-**  
**(MAKARAND V. MAHADEOKAR)**  
**ACCOUNTANT MEMBER**

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. संबंधितआयकरआयुक्त/ Concerned CIT
4. आयकरआयुक्त(अपील) / The CIT(A)-
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, अहमदाबाद/ DR, ITAT, Ahmedabad
6. गार्डफाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायकपंजीकार (Dy./ Asstt.Registrar)  
आयकरअपीलीयअधिकरण, अहमदाबाद/ ITAT, Ahmedabad

a.k.