

IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE MS. SUCHITRA RAGHUNATH KAMBLE, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1107 and 1108/SRT/2024

Assessment Years: 2014-15 & 2015-16

(Hybrid hearing)

Assistant Commissioner of Income-tax, Central Circle- 3, Surat, 5 th Floor, Aayakar Bhawan, Majura Gate, Surat-395 001	बनाम/ Vs.	Jignesh Mahesh Amin 418, Royal Trading Tower, Nr. Ratan Cinema, Salabatpura, Surat- 395 003
स्थायीले खासं./जीआइआरसं./PAN/GIR No: AAJPA 2349 H		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA No.1109/SRT/2024

Assessment Year: 2013-14

Assistant Commissioner of Income-tax, Central Circle- 3, Surat, 5 th Floor, Aayakar Bhawan, Majura Gate, Surat-395 001	बनाम/ Vs.	Anupa Jignesh Amin B-19, Ashirwad Residency Near China Gate, City Light, Surat-395 017
स्थायीले खासं./जीआइआरसं./PAN/GIR No: ACSPA 6502 F		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA No.1111/SRT/2024

Assessment Year: 2013-14

(Hybrid hearing)

Assistant Commissioner of Income-tax, Central Circle- 3, Surat, 5 th Floor, Aayakar Bhawan, Majura Gate, Surat-395 001	बनाम/ Vs.	Massimo Enterprise FP No.139, Orleaans, Near Sosyo Circle, Udhna Magdalla Road, Surat-395 007
स्थायीले खासं./जीआइआरसं./PAN/GIR No: AAVFM 0143 M		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से /Appellant by	Shri Rasesh Shah, CA
राजस्व की ओर से /Respondent by	Shri Ajay Uke, Sr-DR
सुनवाई की तारीख/Date of Hearing	20/08/2025
उद्घोषणा की तारीख/Date of Pronouncement	22/08/2025

आदेश / ORDER

PER BIJAYANANDA PRUSETH, AM:

These four appeals by the Revenue emanate from the separate orders passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act'), all dated 27.08.2024, by the Commissioner of Income-tax (Appeals)-4, Surat [in short "the CIT(A)"] for assessment years (AYs) 2013-14 to 2015-16, which in turn arise from the separate assessment orders passed by the Assessing Officer (in short, 'AO') dated 17.02.2022, 07.03.2022 and 22.02.2022. All the appeals are interconnected, and hence with the consent of parties, appeals were clubbed and heard together and are decided by common order for the sake of convenience and brevity.

2. The Revenue have raised following grounds of appeals are as under:

ITA No.1107/SRT/2024 (AY 2014-15)

"1) On the facts and circumstances of the case and in law the Ld. CIT(A) has erred in deleting the addition of Rs.74,87,000/- made by the AO u/s 68 of the I.T. Act on account of unexplained cash credit in the form of accommodation entries observing that the appellant had repaid the entire loans in the subsequent years which is not disputed by the AO and under the circumstances, such unsecured loans cannot be added u/s 68 of the I.T. Act despite the fact that the loan were claimed to be received from the persons in which name income tax records were artificially created by Sadhani Brothers and such creditors having minimal incomes, and having no genuine business transactions in their return of income filed.

2) On the facts and in the circumstances of the case and in law the Ld. CIT(A) erred in deleting the addition of Rs.37,435/- made by AO on account of unaccounted commission paid for availing accommodation entry of unsecured loan without appreciating the fact that the assessee has obtained unsecured loan in the form of accommodation entries.

3) On the facts and in the circumstances of the case and in law the Ld. CIT(A) erred in deleting the addition of Rs.1,08,000/- made by the on account of disallowances of interest expenses claimed on the bogus unsecured loan.

4) The appellant craves to add, amend, alter, substitute, modify the above ground of appeal, raise any new ground of appeal, if necessary, either before or during the course of the hearing of the appeal on the basis of submissions to be made.”

2.1 ITA No.1108/SRT/2024 (AY 2015-16)

“1) On the facts and circumstances of the case and in law the Ld. CIT(A) has erred in deleting the addition of Rs.15,88,000/- made by the AO u/s 68 of the I.T. Act on account of unexplained cash credit in the form of accommodation entries observing that the appellant had repaid the entire loans in the subsequent years which is not disputed by the AO and under the circumstances, such unsecured loans cannot be added u/s 68 of the I.T. Act despite the fact that the loan were claimed to be received from the persons in which name income tax records were artificially created by Sadhani Brothers and such creditors having minimal incomes, and having no genuine business transactions in their return of income filed.

2) On the facts and in the circumstances of the case and in law the Ld. CIT(A) erred in deleting the addition of Rs.7,904/- made by AO on account of unaccounted commission paid for availing accommodation entry of unsecured loan without appreciating the fact that the assessee has obtained unsecured loan in the form of accommodation entries.

3) On the facts and in the circumstances of the case and in law the Ld. CIT(A) erred in deleting the addition of Rs.10,10,991/- made by the on account of disallowances of interest expenses claimed on the bogus unsecured loan.

4) The appellant craves to add, amend, alter, substitute, modify the above ground of appeal, raise any new ground of appeal, if necessary, either before or during the course of the hearing of the appeal on the basis of submissions to be made.”

2.2 ITA No.1109/SRT/2024 (AY 2013-14)

“1) On the facts and circumstances of the case and in law the Ld. CIT(A) has erred in deleting the addition of Rs.39,00,000/- made by the AO u/s 68 of the I.T. Act on account of unexplained cash credit in the form of accommodation entries observing that the appellant had repaid the entire loans in the subsequent years which is not disputed by the AO and under the circumstances, such unsecured loans cannot be added u/s 68 of the I.T. Act despite the fact that the loan were claimed to be received from the persons in which name income tax records were artificially created by Sadhani Brothers and such creditors having minimal incomes, and having no genuine business transactions in their return of income filed.

2) On the facts and in the circumstances of the case and in law the Ld. CIT(A) erred in deleting the addition of Rs.19,500/- made by AO on account of unaccounted commission paid for availing accommodation entry of unsecured loan without appreciating the fact that the assessee has obtained unsecured loan in the form of accommodation entries.

3) On the facts and in the circumstances of the case and in law the Ld. CIT(A) erred in deleting the addition of Rs.12,658/- made by the on account of disallowances of interest expenses claimed on the bogus unsecured loan.

4) The appellant craves to add, amend, alter, substitute, modify the above ground of appeal, raise any new ground of appeal, if necessary, either before or during the course of the hearing of the appeal on the basis of submissions to be made.”

2.3 ITA No.1111/SRT/2024 (AY 2013-14)

“1) On the facts and circumstances of the case and in law the Ld. CIT(A) has erred in deleting the addition of Rs.76,50,000/- made by the AO u/s 68 of the I.T. Act on account of unexplained cash credit in the form of accommodation entries observing that the appellant had repaid the entire loans in the subsequent years which is not disputed by the AO and under the circumstances, such unsecured loans cannot be added u/s 68 of the I.T. Act despite the fact that the loan were claimed to be received from the persons in which name income tax records were artificially created by Sadhani Brothers and such creditors having minimal incomes, and having no genuine business transactions in their return of income filed.

2) On the facts and in the circumstances of the case and in law the Ld. CIT(A) erred in deleting the addition of Rs.38,250/- made by AO on account of unaccounted commission paid for availing accommodation entry of unsecured loan without

appreciating the fact that the assessee has obtained unsecured loan in the form of accommodation entries.

3) On the facts and in the circumstances of the case and in law the Ld. CIT(A) erred in deleting the addition of Rs.59,455/- made by the on account of disallowances of interest expenses claimed on the bogus unsecured loan.

4) The appellant craves to add, amend, alter, substitute, modify the above ground of appeal, raise any new ground of appeal, if necessary, either before or during the course of the hearing of the appeal on the basis of submissions to be made.”

3. Vide applications dated 02.04.2025, all the assessees have raised common and identical additional ground for all AYs. The additional ground in ITA No.1108/SRT/2024 for A.Y. 2015-16 is reproduced below:

“On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in confirming the action of assessing office in re-opening assessment u/s 147 by issuing notice u/s 148 of the I.T. Act, 1961.”

3.1 The Ld. AR submitted that he supports the order of CIT(A) on the abovementioned ground as per the provisions of Rule 27 of the Appellate Tribunal Rules, 1963 with a requested to admit the additional ground. On the other hand, the Ld. CIT-DR submitted that the Bench may decide as it thinks fit. The additional ground raised by the appellant requires the Tribunal to consider a question of law arising from the facts which are on record in the assessment proceedings. Therefore, following the decisions of Hon’ble Supreme Court in case of National Thermal Power Co. Ltd. vs. CIT (1998) 229 ITR 383 (SC) and Jute Corporation of India Ltd. vs. CIT (1991) 187 ITR 688 (SC), the additional ground of all appeals are admitted and the same will be decided in course of the present order.

4. For appreciation of facts, ITA No. 1108/Srt/2024 is treated as “lead” case. Facts of the case in brief are that assessee filed his return of income for AY 2015-16 on 30.03.2016 declaring total income at Rs.Nil. Assessment u/s 143(3) was framed on 19.12.2017 determining total income at Rs.4,16,61,750/-. Thereafter, information was received from Investigation Wing, Surat that a search and seizure operation u/s 132 of the Act was carried out at the residential premises of Sadhani Brothers. Survey u/s 133A of the Act was also carried out at the office premises of Sadhani Brothers. Various incriminating documents were impounded as per Annexures-B/193, B/211, B/217, , B/263, B/534, B/594, B/611, B/621, B/623, B/637, B/642, B/644, B/647, B/682, B/692, B/708, B/732, B/783, etc. These Annexures are part of artificially created income-tax records of 873 persons whose bank accounts and income-tax records were managed and maintained by Sadhani Brothers. As per the Annexures, the assessee had obtained unsecured loan of Rs.1,11,47,457/- from 18 concerns of Sadhani Brothers. Shri Darshan P. Sadhani, in his statement u/s 132(4) and 131(1A), admitted that his source of income is commission income by filing income-tax returns of clients and providing accommodation entries to persons whoever required it on commission basis. On the basis of above information, the case of assessee was reopened u/s 147 of the Act after obtaining prior approval of Ld.PCIT (Central) Surat u/s 151(1) of the Act. In response to notice u/s 148, assessee filed return on 14.05.2021 declaring the original total income at Rs.Nil. The AO provided

reasons for reopening, relevant seized materials and statement of Shri Darshana P. Sadhani to the assessee. After issuing various statutory and show cause notices, AO added Rs.15,88,000/- on account of unexplained unsecured loan. He added Rs.10,10,991/- towards interest expenses on the alleged unsecured loans. He also added Rs.7,940/-, being 0.5% of the above unsecured loan towards unaccounted commission expense.

4.1 Aggrieved by the addition made in assessment order, assessee filed appeal before CIT(A). The assessee challenged validity of reopening u/s 147 of the Act as well as merits of the additions. It was submitted before him that the loans were received through banking channel and appellant had given all required details including PAN, confirmation of loan, returns of income, bank statements to the AO; but AO did not accept these details and made the addition. It was also submitted that all loans of Rs.15,88,000/- were repaid through banking channel in the subsequent FY 2015-16 (A.Y 2016-17), which has been accepted by AO. These loans were received in the normal course of business for short period and were repaid shortly. The appellant filed various details to prove the identity, creditworthiness and genuineness of unsecured loans, which was noted by the CIT(A). The details of loans received and repaid are also given in a table at pages 13 and 14 of the appellate order. The appellant relied on the decision of Hon'ble jurisdictional High Court in case of CIT vs. Ayachi Chandrashekhar Narsangji (2014) 42 taxmann.com 251 (Guj) and PCIT vs. Ambe Tradecorp (P.) Ltd. (2022) 145 taxmann.com 27 (Guj) and

submitted that once repayment of loan is accepted by the Department, addition u/s 68 cannot be made. The submission of the assessee is reproduced at pages 4 to 8 and 10 to 15 of the appellate order. The decision of the CIT(A) on addition of unsecured loan of Rs.15,88,000/- u/s 68 of the Act is at para-7 to 7.7 of the appellate order. The CIT(A) deleted the said addition on the ground that these loans were repaid in the subsequent FY 2015-16 (A.Y 2016-17), which has not been disputed by AO. The CIT(A) also deleted the other two additions of Rs.10,10,991/- and Rs.7,940/- towards interest expenses on bogus unsecured loans and commission expense incurred for obtaining the said bogus loans.

5. Aggrieved by the order of CIT(A) Revenue has filed appeal before the Tribunal. The Ld. Senior DR for the Revenue strongly supported the order of AO. He submitted that information regarding bogus loan from 18 parties were received due to search and survey action carried out at the residence and business premises of Sadhani Brothers, who had admitted providing bogus loans to various parties on commission basis. He submitted that various incriminating materials were found with Sadhani Brothers, who was maintaining 873 files for providing accommodation entries to various parties. Since the addition has been made on the basis of incriminating material, the deletion of addition by the CIT(A) is not justified.

6. On the other hand, Ld. Authorized Representative (Ld.AR) of the assessee supported the order of CIT(A). He filed various details which had

been filed before lower authorities and relied on various decisions in support of the action of the CIT(A). He submitted that the assessee has discharged the primary onus cast on him u/s 68 of the Act by filing details such as (i) name, address and PAN of the depositors, (ii) confirmation of the depositors, (iii) ITR acknowledgment of the depositors, (iv) computation of total income, (v) balance of the depositors and (vi) relevant extract of bank statements. The Ld. AR submitted that AO relied on statement of Sadhani Brothers, who is the tax consultant of various parties. Hence, their statement cannot be treated as evidence, particularly when statement of lenders, recorded if any, are not brought on record. The assessee was not allowed to cross-examine Sadhani Brothers. The affidavits of lenders relied upon by AO were not supplied to the assessee. Even content of the affidavits is not reproduced in the assessment order. In absence of such details, it is apparent that the assessee has not been implicated by the impugned lenders. The Ld. AR further submitted that the so-called incriminating materials are in fact income-tax record of the lenders and do not constitute incriminating materials in the strict sense of the search provisions. No evidence was found that assessee paid cash against receipt of cheques from lenders. The Revenue has not brought any material on record to prove that the persons are mere name lenders and their income-tax records are not showing true state of affairs. The CIT(A), therefore, rightly deleted addition of Rs.15,88,000/-. The Ld. AR relied on the decisions in cases of (i) DCIT vs. Rohini Builders – SLP(C) 9155 of 201 (SC) (ii) DCIT vs. Rohini Builders 256 ITR

30 (Guj), (iii) PCIT vs. D&H Enterprise 72 taxmann.com 91 (Guj), (iv) CIT vs. Apex Therm Packaging (P.) Ltd. 42 Taxmann.Com 473 (Guj), (v) ITO vs. Shanti Enterprise 71 taxmann.com 275 (Guj), (vi) CIT vs. Ranachhod Jivabhai Nakhava 21 taxmann.com 159 (Guj) and (vii) Nemi Chand Kothari vs. CIT 264 ITR 254 (Guj.). He also submitted that assessee has repaid the entire loan of Rs.15,88,000/- to the concerned lenders in the immediately succeeding AY. The Ld. AR submitted that the CIT(A) has rightly deleted addition in respect of repaid loans which is supported by decisions of Hon'ble jurisdictional High Court in case of Ayachi Chandrashekar Narsangji (supra) and Ambe Tradecorp (P.) Ltd. (supra). He further submitted that the CIT(A) has rightly deleted the interest of Rs.10,10,991 on such unsecured loans since the addition of unsecured loans was deleted. The CIT(A) has also rightly deleted the estimated commission expenses of Rs.7,940/- because he has allowed relief in respect of the addition of bogus loans u/s 68 of the Act. The Ld. AR also submitted that the Co-ordinate Bench of this Tribunal had decided similar issue in favour of the assessee in the case of ACIT vs. Bharatbhai Kanjibhai Kakadiya in ITA Nos. 391 and 312/SRT/2023 for AY 2016-17 dated 24.03.2025.

7. We have heard both the parties and perused the materials on record. We also deliberated various case laws relied upon by the parties. The Revenue has contested the deletion of addition of Rs.15,88,000/- u/s 68 of the Act as well as the interest and commission expenses in respect of the bogus unsecured loans. On the other hand, Ld. AR of the assessee has raised

additional ground regarding validity of reopening u/s 147 of the Act which was confirmed by the CIT(A).

8. Since jurisdictional issue on validity of reopening u/s 147 by issue of notice u/s 148 of the Act has been raised by the appellant, it would be proper to decide the same before proceeding to decide the issues on merit. On the basis of information received from the Investigation Wing, Surat that search and seizure operation u/s 132 and survey action u/s 133A of the Act were carried out in cases of Sadhani Brothers, which resulted in collection of evidences revealing that the group was providing accommodation entries of unsecured loans and that appellant had taken bogus loans from 18 parties to the extent of Rs.1,11,47,457/-, the case was reopened u/s 147 of the Act. The AO has discussed about the incriminating materials in pages-2 and 3 of the assessment order. The case was reopened after obtaining prior approval of the PCIT(Central), Surat u/s 151(1) of the Act. In response to the notice u/s 148, assessee filed his return of income on 14.05.2021 declaring Rs.Nil income. The AO provided reasons for reopening to the assessee. Thereafter, assessee filed various details in response to the notices issued to him by AO. The AO completed assessment u/s 147 of the Act on 07.03.2022. During appellate proceedings before CIT(A), the AR of the appellant had also raised the ground on the impugned issue. The CIT(A) dismissed the ground by observing that there was adequate materials available with the AO to form a reasonable belief that income of the appellant had escaped income. During the

search/survey action at the premises of Sadhani Brothers, it was found that the said persons were engaged in providing accommodation entries by controlling and managing financial affairs of 873 persons/entities. The appellant had shown transactions of unsecured loans from the above concerns. Hence, the ground was dismissed by CIT(A). We do not find any infirmity in the order of CIT(A). The Hon'ble Supreme Court in case of ACIT vs. Rajesh Jhaveri Stock Brokers Pvt. Ltd., 291 ITR 500 (SC) held that the expression "reason to believe" would mean cause or justification and cannot be read to mean that the AO should have finally ascertained the fact by legal evidence or conclusion. Whether material would conclusively prove escapement of income is not the concern at that stage. In view of the above facts and respectfully following the decision of Hon'ble Supreme Court cited supra, the additional ground raised by the appellant is dismissed.

9. Ground No. 1 of Revenue's appeal pertains to addition of Rs.15,88,000/- u/s 68 of the Act towards the bogus unsecured loans. There is no dispute regarding the unsecured loans received by the assessee from 18 parties amounting to Rs.1,11,47,457/- including Rs.15,88,000/- during the subject year. However, assessee had repaid loans of Rs.15,88,000/- to the concerned parties in the next FY 2015-16 (AY 2016-17). The CIT(A) has deleted this amount by relying on the decisions of Hon'ble jurisdictional High Court in case of Ayachi Chandrashekhar Narsangji (supra) and Ambe Tradecorp (P.) Ltd. (supra). The Hon'ble Gujarat High Court in case of Ayachi Chandrashekhar

Narsangji (supra) held that where Department has accepted repayment of loan in subsequent year, no addition was to be made in the current year on account of cash credit. Similarly, in case of Ambe Tradecorp (P.) Ltd. (supra), the Hon'ble court held that where assessee took loan from two parties and he has furnished requisites material showing identity of loan givers and that assessee was not beneficiary as loan was repaid in subsequent year, no addition u/s 68 could be made on account of such loan. The repayment of loans in the present case has been accepted by the AO. The Ld. Sr-DR has not disputed above facts. Hence, following the binding decisions of Hon'ble jurisdictional High Court, we do not find any infirmity in the order of CIT(A) in deleting addition of Rs.15,88,000/-. We also find that co-ordinate Bench of this Tribunal under similar facts and circumstances of the case in Bharatbhai Kanjiobhai Kakadiya (supra) has decided the issue in favour of assessee. In view of the above, the ground No.1 is dismissed.

10. Ground No.2 and 3 of Revenue's appeal are deletion of Rs.10,10,991/- towards interest expenses claimed on bogus unsecured loan and Rs.7,940/- on account of unaccounted commission paid for availing accommodation entry of unsecured loan. The CIT(A) has deleted both the additions by observing that the addition toward the bogus loans was deleted by him. Therefore, the corresponding disallowance of interest expenses debited in the profit and loss account cannot be sustained. He also deleted addition of Rs.7,940/- towards unaccounted commission expenses for the same reason. We have confirmed

the order of CIT(A) regarding the deletion of unsecured loans. Hence, there remains no basis to sustain the above two additions. Accordingly, we confirm the order of CIT(A) and dismiss both the grounds of Revenue.

11. In the result, appeal of Revenue is dismissed and additional ground raised by the assessee is also dismissed.

ITA No.1107 & 1109 & 1111/SRT/2024 (AYs: 2014-15, 2013-14)

12. We find that the facts of the above three appeals of Revenue are similar to the facts of the case decided above in ITA No. 1108/Srt/2024 (supra). The grounds of appeals are also similar in all three appeals. We also find that the additional ground raised by the appellant in all cases are also similar. Hence, following the reasons given in ITA No.1108/SRT/2024 for A.Y 2015-16, the appeals of Revenue as well as the additional grounds of the appellant are dismissed.

13. In the result, all the appeals of the Revenue are and additional ground raised by appellant are dismissed.

14. In combine result, Revenue's appeals and additional ground raised by assessee in all the appeals are dismissed.

Order is pronounced in accordance with Rule 34(3) of the ITAT Rules, 1963 on 22/08/2025 in the open court.

Sd/-

(SUCHITRA R KAMBLE)

न्यायिक सदस्य/JUDICIAL MEMBER

सूरत /Surat

दिनांक/ Date: 22/08/2025

Dkp Outsourcing Sr.P.S*

Sd/-

(BIJAYANANDA PRUSETH)

लेखा सदस्य/ ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त (अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, सूरत/ DR, ITAT, SURAT
- गार्ड फाईल/ Guard File

By order/आदेश से,

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सहायक पंजीकार
आयकर अपीलीय अधिकरण, सूरत