

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

आयकर अपील सं./ITA No.966/SRT/2024

Assessment Year: 2021-22

(Hybrid hearing)

Dy. Commissioner of Income tax, Central Circle – 4, Surat, Aaykar Bhawan, Majura Gate, Surat-395 001	बनाम/ Vs.	Shri Mehul Vinubhai Radadiya 101, Mangal Deep Apartment, Kapodara Road, Om Nagar, Parvat Patia, Surat-395 010
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AJGPR 7928 B		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA No.970/SRT/2024

Assessment Year: 2021-22

Dy. Commissioner of Income tax, Central Circle – 4, Surat, Aaykar Bhawan, Majura Gate, Surat-395 001	बनाम/ Vs.	Shri Ankit Bholabhai Radadiya Plot No.07, Adarsh Society, Nr. Gokulam Diary, Athwalines, Surat- 395 001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AZTPR 2029 N		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA No.971/SRT/2024

Assessment Year: 2021-22

Dy. Commissioner of Income tax, Central Circle – 4, Surat, Room No.508, Aaykar Bhawan, Majura Gate, Surat-395 001	बनाम/ Vs.	Shri Parshottambhai Bachubhai Radadiya 41/42 Om Nagar Society, Nr Puna Octroi Naka Parvat Patiya, Surat- 395 010
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: ACXPR 3605 H		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA No.973/SRT/2024

Assessment Year: 2021-22

Dy. Commissioner of Income tax, Central Circle – 4, Surat Room No.508, Aaykar	बनाम/ Vs.	Shri Rahul Kumar Vinubhai Radadiya 45, Saiffee Co-Op. Housing Society,
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Bhawan, Majura Gate, Surat-395 001		L R Road, Varachha, Surat-395 006
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No: ALAPR 2257 H</b>		
<b>(अपीलार्थी/Appellant)</b>		<b>(प्रत्यर्थी/Respondent)</b>

**आयकर अपील सं./ITA No.974/SRT/2024**

**Assessment Year: 2021-22**

Dy. Commissioner of Income tax, Central Circle – 4, Surat Room No.508, Aaykar Bhawan, Majura Gate, Surat-395 001	<b>बनाम/ Vs.</b>	Shri Vipulkumar Manubhai Radadiya 4, Shiv Row House, Near Raghuvir Market, Aai Mata road, Parvat Patia, Surat-395 010
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No: ACYPR 9791 B</b>		
<b>(अपीलार्थी/Appellant)</b>		<b>(प्रत्यर्थी/Respondent)</b>

**आयकर अपील सं./ITA No.977/SRT/2024**

**Assessment Year: 2021-22**

Dy. Commissioner of Income tax, Central Circle – 4, Surat, Room No.508, Aaykar Bhawan, Majura Gate, Surat-395 001	<b>बनाम/ Vs.</b>	Shri Chaturbhai Manubhai Radadiya 1, Shiv Row House, Near Raghuvir Market, Aai Mata Road, Parvat Patiya, Surat-395 010
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No: ABBPR 4075 Q</b>		
<b>(अपीलार्थी/Appellant)</b>		<b>(प्रत्यर्थी/Respondent)</b>

**आयकर अपील सं./ITA No.978/SRT/2024**

**Assessment Year: 2021-22**

Dy. Commissioner of Income tax, Central Circle – 4, Surat, Room No.508, Aaykar Bhawan, Majura Gate, Surat-395 001	<b>बनाम/ Vs.</b>	Shri Kishorbhai Manubhai Radadiya 2, Shiv Row House, Near Raghuvir Market, Aai Mata Road, Parvat Patiya, Surat-395 010
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No: ABNPR 3738 G</b>		
<b>(अपीलार्थी/Appellant)</b>		<b>(प्रत्यर्थी/Respondent)</b>

**आयकर अपील सं./ITA No.979/SRT/2024**

**Assessment Year: 2021-22**

Dy. Commissioner of Income tax, Central Circle – 4, Surat, Room No.508, Aaykar Bhawan, Majura Gate, Surat-395 001	<b>बनाम/ Vs.</b>	Shri Ankur Bholabhai Radadiya Plot No.07, Adarsh Society, Nr. Gokulam Dairy, Athwalines, Surat-395 001
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No: BMQPR 9216 N</b>		
<b>(अपीलार्थी/Appellant)</b>		<b>(प्रत्यर्थी/Respondent)</b>

**आयकर अपील सं./ITA No.980/SRT/2024**

**Assessment Year: 2021-22**

Dy. Commissioner of Income tax, Central Circle – 4, Surat, Room No.508, Aaykar Bhawan, Majura Gate, Surat-395 001	<b>बनाम/ Vs.</b>	Shri Bhartiben Bholabhai Radadiya Plot No.07, Adarsh Society, Nr. Gokulam Dairy, Athwalines, Surat-395 001
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No: ACYPR 9794 E</b>		
<b>(अपीलार्थी/Appellant)</b>		<b>(प्रत्यर्थी/Respondent)</b>

निर्धारिती की ओर से /Appellant by	Shri Rasesh Shah, CA
राजस्व की ओर से /Respondent by	Shri Mukesh Jain, CIT-DR with Shri Kevin Langaliya, CA
सुनवाई की तारीख/Date of Hearing	11/09/2025
उद्घोषणा की तारीख/Date of Pronouncement	16/10/2025

**आदेश / ORDER**

**PER BENCH:**

These nine appeals by the revenue emanate from the separate orders passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') dated 25.07.2024, 26.07.2024 and 30.07.2024 by the Commissioner of Income-tax (Appeals)-4, Surat [in short, 'Ld. CIT(A)'] in cases of nine different assesseees

of Radadiya family (who are having shares in the sold land) for the Assessment Year (AY) 2021-22, which in turn arises out of separate assessment orders passed by the Assessing Officer (in short, 'AO') u/s 143(3) of the Act dated 29.12.2022.

2. Since the issues involved in all the appeals are common and identical except variance of amount, therefore, with the consent of all the parties, these appeals have been clubbed and heard together and a consolidated order is being passed for the sake of convenience and brevity. For appreciation of facts, appeal in ITA No. 966/SRT/2024 for AY 2021-22 is treated as '**lead**' case in respect of issue of addition made by the AO u/s.69A of the Act. However, in respect of issue of treating the house property income as business income by the AO, appeal in ITA No. 980/SRT/2024 for AY 2021-22 is treated as '**lead**' case.

3. The grounds of appeal raised by the revenue in ITA No. 966/SRT/2024 for AY 2021-22, are as under:

- 1) *"On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.2,00,81,625/- made by the AO u/s 69A of the Act on account of unaccounted income, without appreciating that the addition was made on the documents recovered during search proceedings from the premises of the assessee, as per the provisions of Section 132(4A) of the Act?"*
- 2) *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.2,00,81,625/- made by the AO u/s 69A of the Act on account of unaccounted income, relying upon the decision of the Hon'ble ITAT in the case of Shri Vinodkumar Goswami, despite the fact that the department has not accepted the decision of the Hon'ble tribunal and has filed an appeal before the Hon'ble Gujarat High Court.*
- 3) *On the facts and in the circumstances of the case and in law the Ld. CIT(A) ought to have upheld the order of the Assessing Officer.*

- 4) *It is, therefore, prayed that the order of the Ld. CIT(A) may be set aside and that the AO may be restored to the above extent.*
- 5) *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."*

4. The grounds of appeal raised by the revenue in ITA No. 970/SRT/2024 for AY 2021-22, are as under:

- (i) *"On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.2,03,36,578/- made by the AO u/s 69A of the Act on account of unaccounted income, without appreciating that the addition was made on the documents recovered during search proceedings from the premises of the assessee, as per the provisions of Section 132(4A) of the Act?*
- (ii) *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.2,03,36,578/- made by the AO u/s 69A of the Act on account of unaccounted income, relying upon the decision of the Hon'ble ITAT in the case of Shri Vinodkumar Goswami, despite the fact that the department has not accepted the decision of the Hon'ble tribunal and has filed an appeal before the Hon'ble Gujarat High Court.*
- (iii) *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in treating the amount of Rs.13,09,800/- as income from house property despite the fact that any income under the head house property, the property involved must consist of building and land appurtenant thereto, however the assessee has handed over bare land to Ecom Express Limited and Delivery Pvt. Ltd., all the construction thereon has been done by the lessee.*
- (iv) *On the facts and in the circumstances of the case and in law the Ld. CIT(A) ought to have upheld the order of the Assessing Officer.*
- (v) *It is, therefore, prayed that the order of the Ld. CIT(A) may be set aside and that the AO may be restored to the above extent.*
- (vi) *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."*

5. The grounds of appeal raised by the revenue in ITA No. 971/SRT/2024 for A.Y 2021-22, are as under:

- (i) *“On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.6,10,05,147/- made by the AO u/s 69A of the Act on account of unaccounted income, without appreciating that the addition was made on the documents recovered during search proceedings from the premises of the assessee, as per the provisions of Section 132(4A) of the Act?”*
- (ii) *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.6,10,05,147/- made by the AO u/s 69A of the Act on account of unaccounted income, relying upon the decision of the Hon’ble ITAT in the case of Shri Vinodkumar Goswami, despite the fact that the department has not accepted the decision of the Hon’ble tribunal and has filed an appeal before the Hon’ble Gujarat High Court.*
- (iii) *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in treating the amount of Rs.14,77,275/- as income from house property despite the fact that any income under the head house property, the property involved must consist of building and land appurtenant thereto, however the assessee has handed over bare land to Ecom Express Limited and Delivery Pvt. Ltd., all the construction thereon has been done by the lessee.*
- (iv) *On the facts and in the circumstances of the case and in law the Ld. CIT(A) ought to have upheld the order of the Assessing Officer.*
- (v) *It is, therefore, prayed that the order of the Ld. CIT(A) may be set aside and that the AO may be restored to the above extent.*
- (vi) *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.”*

6. The grounds of appeal raised by the revenue in ITA No. 973/SRT/2024 for A.Y 2021-22 are as under:

- (i) *“On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.2,00,81,625/- made by the AO u/s 69A of the Act on account of unaccounted income, without appreciating that the addition was made on the documents recovered during search proceedings from the premises of the assessee, as per the provisions of Section 132(4A) of the Act?”*
- (ii) *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.2,00,81,625/- made by the AO u/s 69A of the Act on account of unaccounted income, relying upon the decision of the Hon’ble ITAT in the case of Shri Vinodkumar Goswami, despite the fact that the department has not accepted the decision of the Hon’ble tribunal and has filed an appeal before the Hon’ble Gujarat High Court.*

- (iii) *On the facts and in the circumstances of the case and in law the Ld. CIT(A) ought to have upheld the order of the Assessing Officer.*
- (iv) *It is, therefore, prayed that the order of the Ld. CIT(A) may be set aside and that the AO may be restored to the above extent.*
- (v) *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."*

7. The grounds of appeal raised by the revenue in ITA No. 974/SRT/2024

for A.Y 2021-22 are as under:

- 1) *"On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.1,33,94,443/- made by the AO u/s 69A of the Act on account of unaccounted income, without appreciating that the addition was made on the documents recovered during search proceedings from the premises of the assessee, as per the provisions of Section 132(4A) of the Act?"*
- 2) *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.1,33,94,443/- made by the AO u/s 69A of the Act on account of unaccounted income, relying upon the decision of the Hon'ble ITAT in the case of Shri Vinodkumar Goswami, despite the fact that the department has not accepted the decision of the Hon'ble tribunal and has filed an appeal before the Hon'ble Gujarat High Court.*
- 3) *On the facts and in the circumstances of the case and in law the Ld. CIT(A) ought to have upheld the order of the Assessing Officer.*
- 4) *It is, therefore, prayed that the order of the Ld. CIT(A) may be set aside and that the AO may be restored to the above extent.  
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."*

8. The grounds of appeal raised by the revenue in ITA No. 977/SRT/2024

for A.Y 2021-22 are as under:

- 1) *"On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.1,33,94,443/- made by the AO u/s 69A of the Act on account of unaccounted income, without appreciating that the addition was made on the documents recovered during search proceedings from the premises of the assessee, as per the provisions of Section 132(4A) of the Act ?*

- 2) *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.1,33,94,443/- made by the AO u/s 69A of the Act on account of unaccounted income, relying upon the decision of the Hon'ble ITAT in the case of Shri Vinodkumar Goswami, despite the fact that the department has not accepted the decision of the Hon'ble tribunal and has filed an appeal before the Hon'ble Gujarat High Court.*
- 3) *On the facts and in the circumstances of the case and in law the Ld. CIT(A) ought to have upheld the order of the Assessing Officer.*
- 4) *It is, therefore, prayed that the order of the Ld. CIT(A) may be set aside and that the AO may be restored to the above extent.*
- 5) *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."*

9. The grounds of appeal raised by the revenue in ITA No. 978/SRT/2024 are as under:

- 1) *"On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.1,33,94,443/- made by the AO u/s 69A of the Act on account of unaccounted income, without appreciating that the addition was made on the documents recovered during search proceedings from the premises of the assessee, as per the provisions of Section 132(4A) of the Act?"*
- 2) *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.1,33,94,443/- made by the AO u/s 69A of the Act on account of unaccounted income, relying upon the decision of the Hon'ble ITAT in the case of Shri Vinodkumar Goswami, despite the fact that the department has not accepted the decision of the Hon'ble tribunal and has filed an appeal before the Hon'ble Gujarat High Court.*
- 3) *On the facts and in the circumstances of the case and in law the Ld. CIT(A) ought to have upheld the order of the Assessing Officer.*
- 4) *It is, therefore, prayed that the order of the Ld. CIT(A) may be set aside and that the AO may be restored to the above extent.*
- 5) *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."*

10. The grounds of appeal raised by the revenue in ITA No. 979/SRT/2024 for A.Y 2021-22 are as under:

- 1) *“On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.2,03,36,578/- made by the AO u/s 69A of the Act on account of unaccounted income, without appreciating that the addition was made on the documents recovered during search proceedings from the premises of the assessee, as per the provisions of Section 132(4A) of the Act?”*
- 2) *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.2,03,36,578/- made by the AO u/s 69A of the Act on account of unaccounted income, relying upon the decision of the Hon’ble ITAT in the case of Shri Vinodkumar Goswami, despite the fact that the department has not accepted the decision of the Hon’ble tribunal and has filed an appeal before the Hon’ble Gujarat High Court.*
- 3) *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in treating the amount of Rs.13,09,800/- as income from house property despite the fact that any income under the head house property, the property involved must consist of building and land appurtenant thereto, however the assessee has handed over bare land to Ecom Express Limited and Delivery Pvt. Ltd., all the construction thereon has been done by the lessee.*
- 4) *On the facts and in the circumstances of the case and in law the Ld. CIT(A) ought to have upheld the order of the Assessing Officer.*
- 5) *It is, therefore, prayed that the order of the Ld. CIT(A) may be set aside and that the AO may be restored to the above extent.*
- 6) *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.”*

11. The grounds of appeal raised by the revenue in ITA No. 980/SRT/2024 for A.Y 2021-22 are as under:

- 1) *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.2,03,51,869/- made by the AO u/s69A of the Act on account of unaccounted income, without appreciating that the addition was made on the documents recovered during search proceedings from the premises of the assessee, as per the provisions of Section 132(4A) of the Act?”*
- 2) *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.2,03,51,869/- made by the AO u/s 69A of the Act on account of unaccounted income, relying upon the decision of the Hon’ble ITAT in the case of Shri Vinodkumar*

*Goswami, despite the fact that the department has not accepted the decision of the Hon'ble tribunal and has filed an appeal before the Hon'ble Gujarat High Court.*

- 3) *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in treating the amount of Rs.6,33,831/- as income from house property, even though the construction on the property was carried out by the company Ecom Express Ltd. & Delivery Pvt. Ltd. and not by the assessee. The Assessee has only handed over the bare land bearing No.534/1, FP -10, Jivaba Park, Opp. Rangavdhut Society, Surat, to the companies.*
- 4) *On the facts and in the circumstances of the case and in law the Ld. CIT(A) ought to have upheld the order of the Assessing Officer.*
- 5) *It is, therefore, prayed that the order of the Ld. CIT(A) may be set aside and that the AO may be restored to the above extent.*
- 6) *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."*

**ITA No.966/SRT/2024 (AY : 2021-22)**

12. Facts of the case in brief are that assessee is an individual and derives income from share in partnership firm, income from business and profession. The assessee filed his return of income on 28.12.2021 declaring total income at Rs.12,14,890/-. The case of the assessee was selected for compulsory scrutiny in view of the search carried out u/s.132(1) of the Act on 06.02.2020 at the residence of Shri Sunny J. Patel in connection with search action in Kuberji Group. Subsequently, notices u/s.143(2) and u/s.142(1) of the Act were issued and served upon the assessee. In their compliance, details/submissions were furnished by the assessee. After considering the details, the AO completed the assessment u/s 143(3) of the Act on 29.12.2022 assessing total income at Rs.2,24,68,515/-. In the said assessment, the AO made two additions *i.e.*, (i) addition of Rs.2,00,81,625/- on account of unexplained money u/s.69A of the

Act and (ii) addition of Rs.11,72,000/- on account of unexplained cash credits u/s 68 of the Act.

13. Regarding the addition made of Rs.2,00,81,625/- on account of unexplained money u/s 69A of the Act, it was observed by the AO that during the course of search proceedings at the residence of Shri Sunny J. Patel and Shri Jayantibhai B. Patel, one digital image reflecting Satakhat dated 09.09.2016, containing details of purchase of lands bearing block nos. 786, 787 and 789 of Village Punagam was found from whatsapp chat of Shri Sunny J. Patel and also from the mobile of his father, Shri Jayantibhai B. Patel. As per the contents of the said image, Satakhat was between Shri R. D. Palitana Seller] and Shri Rajendra Badrinarayan Chandak and Shri Jayantibhai B. Patel (purchasers). The Satakhat was duly signed by both the parties on 09.09.2016 in the presence of witnesses. The land bearing block Nos. 786, 787 and 789 of Village Punagam admeasuring about 17785 sq. yards was agreed to be sold and purchased for Rs.61,551/- per sq. yard for the aggregate consideration of Rs.109,46,84,535/-. The terms of payment were 36 months. Down payment towards purchase had to be paid @ 27% which was to be completed within 90 days from the date of Satakhat and balance 73% payment had to be paid in three equal instalments. The AO further verified the area of aforesaid land from the website of Gujarat Govt. and noted that the area of block No. 786, 787 and 789 is 3750 sq. yards, 6413 sq. yards and 7622 sq. yards, respectively (aggregate area 17785 sq. yards). On verification from the Govt. website, it

was ascertained that land block no. 786 has been registered on 22.02.2021 vide document no. 2418 for total consideration of Rs.3,00,00,000/-, whereas as per the Saudachithi, the total consideration came to Rs.23,08,16,250/- and therefore, the AO held that amount of Rs.20,08,16,250/- had been invested in cash by the registered purchaser. The AO has discussed, on page 6 of the assessment order, the general modus operandi being followed in speculative investment in land dealings in Surat. The AO noted that 10 members of Radadiya family had sold the land at Block no. 786 and the share of the appellant was 10%. Therefore, the AO held that the assessee had received Rs.2,00,81,625/-, being 10% of Rs.20,08,16,250/-, in cash in respect of sale of land at block no. 786.

14. Assessee was, therefore, issued a show-cause notice (SCN) proposing the addition of Rs.2,00,81,625/-. The assessee in his reply objected to the proposed addition by contending that there was no name or signature of the assessee in the loose paper mentioned in the SCN and also the appellant did not know any of the persons mentioned in the said digital image and had never entered into any sale transaction of immovable property. It was further contended by the assessee that the said land was purchased in the year 2015 and then sold to Shri Vinod Goswami and others. On 22.02.2021 for the consideration mentioned in the registered deed. It was also contended that the figures mentioned in the image were imaginary figures and no adverse

inference in respect of the same could be drawn against the appellant in absence of any corroborative evidence.

15. The AO, however, did not agree with the contention of the assessee and held that the transaction recorded in Saudachithi was related to the land transaction carried out by the assessee. The AO referred to another digital image found from mobile of Shri Jayantibhai containing details of payment of 51% share in land. The AO had reproduced the said image on page 12 of the assessment order. The AO inferred that out of the total amount of Rs.62,50,00,000/-, amount of Rs.31,87,00,000/- (being 51%) was paid by Shri Rajendra B. Chandak and Shri Sunny J. Patel (son of Shri Jayantibhai Bhulabhai Patel) and in the said share Shri Rajendra Chandak had invested 75%, being Rs.23,90,62,500/- and Shri Sunny J Patel invested 25%, being Rs.7,96,87,500/-. It was further noted by the AO that area of Block No. 786 and 787 came to 10163 sq. yards and the total consideration for the same came to Rs.62,55,42,813/- (10163 Sq. yard @ Rs.61,551/-). Shri Rajendra B. Chandak and Shri Sunny J. Patel paid two instalments of land being 27% and 24% totalling to 51% in the said two lands which came to Rs.31,90,26,835/- as recorded in the digital image. Similarly, the AO also referred to another digital image found from the mobile of Shri Jayantibhai Patel and as per the contents of which an amount of Rs.19,00,00,000/- had been received from Shri Dharam Patel through hawala and amount of Rs.6,00,00,000/- was received from Shri Jayantibhai B Patel which aggregated to Rs.25,00,00,000/-. The AO noted that

as per the Saudachhithi, it is clear that only two persons were having share in the block No. 786 and 787. The AO further noted that Shri Parshottambhai Bachubhai Radadia and Smt. Bhartiben B. Radadiya had paid total amount of Rs.80,00,000/- to Shri Sunny J. Patel on various dates through banking channel, which was approximately 25% of sale consideration of the land as per registered deed plus stamp duty expenses. Therefore, AO held that Shri Sunny Patel being 25% investor and *de facto* owner of land had recovered 25% of sale deed consideration from the bank accounts of assessee family. The AO further obtained information from the District Magistrate Office that the assessee and his family members had filed an application for change of land use from agriculture to non-agriculture in respect to land at Block no. 786 and 789 on 26.12.2018 and 05.01.2021, respectively. The AO further noted that delay in registration of final deed from the date of original Saudachithi was on account of liquidity crunch following demonetization on 08.11.2016 and Covid pandemic during 2020-21. Therefore, the AO held that the assessee had received total unaccounted income of Rs.2,00,81,625/- from sale of land at Block no. 786 and accordingly, made addition u/s.69A of the Act.

16. Aggrieved by the aforesaid assessment order dated 29.12.2022, assessee preferred appeal before the CIT(A). The CIT(A) observed that the addition had been made by the AO by holding that the land at Block No. 786 had been sold by the assessee @ Rs.61,551/- per sq. yards and therefore, he received substantial portion in cash from the buyers. The addition had been

made in the hands of the assessee based on sale rate @ Rs.61,551/- per sq. yards mentioned in whatsapp image referred as Satakhat by the AO found from the mobile of Shri Sunny J. Patel. The CIT(A) further observed that there was no name or signature of the assessee or any of his family members' in the said image. The addition had been made only for the reason that the land described in the said Satakhat was owned by the assessee along with the other family members on the date mentioned in the said Satakhat. The CIT(A) also observed that there was no material brought on record by the AO linking the assessee with the whatsapp images and that the similar addition made in the case of purchaser of land, Shri Vinod Kumar Goswami, of Block No. 786 had been deleted by this Tribunal considering the same facts in IT(SS) Nos. 5 & 6/SRT/2023. Therefore, the CIT(A) held that there was no corroborative evidence found during the course of search or brought on record by the AO to prove that the land sold by the assessee was in pursuance of Satakhat dated 09.09.2016. In view of the same, CIT(A) deleted the addition of Rs.2,00,81,625/- made u/s.69A of the Act, vide his order dated 30.07.2024.

17. Aggrieved by the order of CIT(A), revenue has filed present appeal before the Tribunal. The Ld. CIT (DR) for the revenue relied upon the order of the AO and contended that CIT(A) is not correct in deleting the addition of Rs.2,00,81,625/- by relying on ITAT's decision in the case of Vinod Kumar Goswami in IT(SS)A Nos. 5 & 6/SRT/2023 dated 24.08.2023. The Ld. CIT-DR stated that case of '*Vinod Kumar Goswami*' is distinguishable from the instant

case as in 'Vinod Goswami' case, the Tribunal treated the loose papers and whatsapp images as "dumb documents" because those were found from third parties and the assessee's name was absent in them. Besides, in the case of 'Vinod Goswami', neither the seller (R D Palitana) nor alleged buyers (Chandak & Jayantibhai) ever owned the land; therefore, AO failed to bring forth any corroborative evidence to link the assessee in the case of Shri Vinod Goswami with the seized documents. Ld. CIT-DR further stated that the instant case is materially different. In the instant case, there is direct banking nexus, i.e., Smt. Bhartiben B. Radadiya and Shri Parshottambhai B. Radadiya transferred Rs.80,00,000/- to Shri Sunny J. Patel (25% investor as per Sauda chitthi). This transfer happened after the sale of land by Radadiya family. Also, in the instant case, contradictions can be seen in the assessee's stand since assessee denied knowing Sunny Patel before the AO but assessee claimed before the CIT(A) that payments were 'loan repayments' and it was, in fact, admitted by the assessee before CIT(A) that the land was originally purchased by the assessee family (Radadiya family) with the funds received from Shri Sunny Patel. It is further submitted by the Ld. CIT-DR that Radadiya family themselves filed NA applications for Block Nos. 786 & 789 exactly as per condition mentioned in Satakhat i.e., ('seller responsible for NA approval'). Besides, approvals in the year 2018 & 2021 match the chronology of eventual sale. Ld. CIT-DR relied on the judgement delivered in the case of CIT vs. Ashaland Corporation (1982) 133 ITR 55 (Guj) wherein it was held by the Hon'ble jurisdictional High Court that

on money was taxable in the year of transfer of title. The Ld. CIT-DR also submitted that AO has rightly invoked provision of Section 69A while making addition since the assessee received unexplained money through unrecorded consideration. In view of the same, Ld. CIT-DR requested to uphold the order passed by the AO and set aside the order of CIT(A).

18. On the other hand, Ld. AR of the assessee contended that the land under consideration had not been sold to either Shri Rajendra Chandak or Shri Jayantibhai B. Patel, appearing as the buyers in the said whatsapp image. The land at Block no. 786 had been sold to Shri Vinodkumar Gowami and Others. These actual buyers are nowhere related to the alleged buyers mentioned in the whatsapp image. Further, Shri R D Palitana, mentioned as seller in the whatsapp image, has neither been identified nor any connection of the said person with the assessee had been established. The Ld. AR also contended that the said image did not contain the name or signature or the handwriting of the assessee. There was also no corroborative evidence against the assessee nor was there any statement of the said third party against the assessee. Moreover, no presumption u/s.132(4A) or section 292C of the Act is also available against the assessee. The Ld. AR further stated that the two other images, as reproduced in **para 9.2** and **9.3** of the assessment order, relied upon by the AO do not contain the name or signature of the assessee but contains the name of some unrelated persons. Moreover, the copies of the said two images were never provided to the assessee during assessment

proceedings before making addition in the hands of the appellant and thereby the principle of natural justice had been denied to the assessee. The Ld. AR also objected to the huge addition challenging the evidentiary value of whatsapp image without any statement or corroborative evidence on record against the assessee. It is also contended that no opportunity of cross-examination of the persons mentioned in the said images was provided to the assessee inspite of specific request made during the assessment proceedings. The Ld. AR further stated that the issue under consideration is fully covered by the decision of this Tribunal in the case of Vinod Kumar Goswami (supra) *wherein* addition was made based on the same whatsapp image relied upon in the instant case. The ITAT has deleted the addition by upholding the decision of CIT(A) that the addition by taking the rate per sq. yard from the digital image of the Sauda-chithi, which is not signed by the assessee and which is not between the actual owners of the land, cannot be basis for determining the on-money payment on purchase of land at Block No. 786.

19. Regarding the transfer of amount of Rs.80,00,000/- by other two co-owners of the said lands, viz., Smt. Bhartiben B. Radadiya and Shri Parsottambhai B. Radadiya to Shri Sunny J. Patel (25% investor as per Sauda chitthi), the Ld. AR stated that the assessee had no transactions whatsoever with Shri Sunny J. Patel. Besides, neither of other 2 co-owners viz., Smt. Bhartiben B. Radadiya and Shri Parsottambhai B. Radadiya, had made any payments to Shri Sunny J. Patel but it was, in fact, the unsecured loan received

by them from Shri Sunny J. Patel in the FY 2018-19, which had been returned back by them. The Ld. AR also stated that Shri Sunny J. Patel had given loan to Shri Bholabhai Radadiya in the FY 2018-19 and after his demise, the loan was repaid by his legal heir and wife, Smt. Bhartiben B. Radadiya. It is also stated that Smt. Bhartiben B. Radadiya and Shri Parsottambhai B. Radadiya were the two co-owners of the land at Block no. 786 and 789 out of total ten co-owners and hence they would receive the sales consideration and not make payment of any sale consideration, as presumed by the AO in the assessment order. The Ld. AR further submitted that if Shri Sunny Patel had made any payment for land to the land owners then the same would have been made to all the 10 co-owners of the land including the assessee and not only to two co-owners since payment to only two co-owners of the land would not create any title of the land in favour of the buyer. Also, if the said payment had been for land, then TDS would also have been definitely made by Shri Sunny J. Patel which was not the case and hence, it supports the contention of the assessee that the loan given by Shri Sunny J. Patel to the assessee and late Shri Bholabhai Radadiya cannot be termed as payment for land.

20. As regards the observation of the AO that the land at Block No. 786 was converted into N.A. land on 26.12.2018 and the land at Block no. 789 had been converted into N.A. land on 05.01.2021, the Ld. AR stated that aforesaid observation of the AO is factually erroneous since as per the registered sale document, the land at Block no. 786 had been converted into N.A. land on

08.02.2019 and not on 26.12.2018 and the land at Block No. 789 had been converted into N.A. land on 28.08.2020 and not on 05.01.2021. It is further stated that after the conversion into N.A. land on 08.02.2019, the land at Block No. 786 had been sold on 22.02.2021, i.e., after a period of almost two years. As per the Ld. AR, the image of the so called Satakhat dated 09.09.2016 stated that the land had to be sold within 36 months from the 09.09.2016, i.e. on or before 08.09.2019 and when the land at Block No.786 was already converted into N.A. on 08.02.2019, i.e., prior to the expiry of 36 months on 08.09.2019, the same could not have been sold on 22.02.2021, i.e., after a period of 2 years. The Ld. AR alleged that the action of the AO in relying upon the aforesaid 2 images, i.e., Image no. lmg\_8794(2) and lmg\_4790 directly in the assessment order without providing a copy thereof to the assessee was not only against the principle of natural justice but was also absolutely erroneous since the same had not been found from the mobile of the assessee, did not contain his name or signature, nor have the said land been sold to either Shri Sunny J. Patel or Shri Rajendra B. Chandak and none of the contents of the said images were related to the transaction of sale of the said land by its 10 co-owners to altogether different buyers. The Ld. AR contended that in view of the same, the reliance placed by the AO upon the said images while making the impugned addition is completely erroneous.

21. We have heard both the parties and perused the materials available on record. We have also deliberated upon the decisions relied on by both sides.

The primary foundation for the addition made by the AO u/s. 69A of the Act is the digital image of a Satakhat (agreement to sell) dated 09.09.2016 recovered from the Whatsapp chats of Shri Sunny J. Patel and also found on the mobile phone of Shri Jayantibhai B. Patel during the course of a search carried out at their premises. The AO has presumed this Whatsapp image as conclusive evidence to establish that a land transaction for Block Nos. 786, 787, and 789 at Village Punagam took place @ Rs.61,551/- per sq. yard and the actual transaction price was far higher than the consideration recorded in the registered sale deed executed by the assessee and his family. The Ld. AR contended that there is no justification for treating such a Whatsapp image as conclusive evidence against the assessee in the absence of (i) any signature or even mention of the assessee's name or any of his family members on the said Satakhat; (ii) there is no linkage or correspondence between the alleged buyers and the assessee; (iii) there are neither any diary entries nor any statement from the assessee accepting such on-money receipt; and (iv) the registered sale deed clearly disclosed the consideration of Rs.3,00,00,000/- , which is duly reflected in the books of account and tax return. He also contended that the Satakhat was not recovered from the assessee or from his premises; hence, presumption u/s. 132(4A) or 292C of the Act would not apply to him. In order to make the addition, the AO was required to establish the factum of on-money receipt with independent corroborative evidence.

22. It is thus clear that the entire addition made by the AO hinges upon electronic images and WhatsApp chats retrieved from third party mobile phones. Admittedly, the assessee's name does not appear in any of the recovered documents. Furthermore, there is no statement from any of the persons mentioned in the documents affirming any transaction with the assessee.

23 The Ld. AR relied on the decision of this Tribunal in case of Vinod Kumar Goswami (supra). In rebuttal, Ld. CIT-DR argued that the case of *Vinod Kumar Goswami* (supra), in which addition on the basis of the same Whatsapp image was deleted, is distinguishable on the ground that in that case, the parties named in the Satakhat (seller/buyer) were unrelated to the landowners whereas in the present case the assessee and his family were the actual owners of the land mentioned. The Ld. CIT-DR also contended that the payment of Rs.80,00,000/- by two other co-owners (Smt. Bhartiben Radadiya and Shri Parsottambhai Radadiya) to Shri Sunny J. Patel corroborates the on-money transaction and forms a banking trail linking the assessee to the so-called Satakhat.

24. In this regard, we note that no evidence has been produced by the assessee that purported loan was earlier given by Shri Sunny J. Patel to the appellant or his relatives. Besides, CIT(A) accepted the submission of assessee in this regard even though same was not corroborated by any documentary evidence. In our opinion, this aspect needed further verification which

remained to be done both at the assessment and appellate stage. Further, while the decision in the case of *Vinodkumar Goswami* is relevant and persuasive, it does not preclude the Revenue from examining the case of the appellant on merit based on its own facts. The presence of direct banking transactions, ownership of the impugned land by the assessee and his family members, application for NA conversion and conflicting submissions necessitate further inquiry.

25. We also take note of the Ld. AR's contention that the Satakhat allegedly executed on 09.09.2016 required completion of transaction within 36 months, i.e., by 08.09.2019. However, the land at Block No. 786 was sold only on 22.02.2021, after more than 4 years from the date of the alleged Satakhat. Hence, the addition is not tenable. We do not concur totally with the contention of Ld. AR as in our opinion the small delay in execution, caused on account of Covid pandemic, would neither invalidate the content or spirit of the Satakhat nor obliterate its evidentiary value.

26. Another flaw in the AO's order is the violation of the rules of natural justice. The AO relied on two other digital images (Img\_8794(2) and Img\_4790), recovered from the mobile of Shri Jayantibhai Patel, to bolster his conclusion of cash movement and hawala dealings. However, as contended by Ld. AR, no copy of these images was ever provided to the assessee during the assessment proceedings. The assessee was also denied the opportunity of

cross-examination of the persons named in these images, despite specific request made in this regard during assessment proceedings.

27. In the scheme of adjudicatory proceedings, when the AO assumes a dual role, first as an investigator collecting evidence and thereafter as an adjudicator rendering a decision, the obligation to uphold the principles of natural justice becomes even more stringent. The concentration of investigative and adjudicatory powers in the same authority inherently carries a risk of bias or preconceived conclusions. Therefore, to preserve fairness, transparency and credibility of the process, it is imperative that the AO provides the assessee with full opportunity of being heard, discloses all material proposed to be relied upon, allows effective rebuttal and passes a reasoned, objective and speaking order. Any departure from these safeguards would render the proceedings vulnerable to challenge on the ground of violation of rules natural justice.

28. It is trite law that any evidence used against the assessee must be disclosed to him and an opportunity must be given to rebut or explain the same. Reliance placed on such documents without giving opportunity to the assessee violates the principles of *audi alteram partem*, rendering the addition legally untenable. This position has been reaffirmed by the Hon'ble Supreme Court in the case of Andaman Timber Industries vs. CCE (2015) 62 taxmann.com 3 (SC) wherein Hon'ble Apex Court held that when statements of witnesses are made basis of demand, not allowing assessee to cross-examine

witnesses, is a serious flaw which makes order nullity, as it amounts to violation of principles of natural justice. In the absence of key documents being furnished to the assessee, including the digital images relied upon by the AO, the principles of natural justice stand violated. The assessee must be given a fair opportunity to rebut the evidence used against him.

29. We also note that the CIT(A) also failed to take necessary steps to cure the deficiency arising on account of violation of principle of natural justice by the AO. It may be noted that powers of CIT(A) are plenary and coterminus with those of the AO, i.e., the CIT(A) has all the powers that the AO has while framing an assessment, including the power to make further inquiries, call for additional evidence, enhance assessment, and even cure defects in the order of the AO. Useful reference may be made to the decisions of the Hon'ble Supreme Court in the case of CIT, U.P. Vs. Kanpur Coal Syndicate, 53 ITR 225 (SC) and Nirbheram Deluram vs. CIT, 224 ITR 610 (SC). In case of Nirbheram Deluram (supra), the Hon'ble Supreme Court held that amounts relating to new sources of income of items not considered by the AO from the point of view of their assessability can be added by the CIT(A) in appeal before him. The CIT(A) is not merely an appellate authority for error correction, but is considered a quasi-judicial authority with plenary powers to reassess the entire matter, either in favour of or against the assessee. In the instant case, the CIT(A) should have called for a remand report from the AO and directions should have been issued by him to the AO to submit the same after providing

the copy of the documents relied upon by AO and providing opportunity of cross examination to the assessee. However, the same remained to be done in the instant case. The CIT(A) has accepted hook, line and sinker the submissions made by the appellant without making further enquiry or calling for remand report from the AO.

30. We further note that certain facts and banking transactions (e.g., Rs.80 lakh transfer from co-owners to Sunny Patel), NA applications filed by the assessee family and contradictions in the assessee's statements could indicate possible unexplained transactions or colourable structuring. These aspects, if properly examined, could either support or negate the Revenue's case.

31. In view of the foregoing discussion, we are of the considered opinion that both lower authorities have failed to discharge their duties in the manner required under the statute and as per the principles laid down by the Hon'ble Courts. Hence, we are of the consider view that the issue requires fresh adjudication by the AO with detailed verification of all facts, after furnishing copies of all evidences to the assessee, granting proper opportunity of hearing and permitting cross-examination of third parties concerned, if requested. Accordingly, order of the CIT(A) is set aside and the matter is restored to the file of the AO for fresh order in accordance with law after granting adequate and reasonable opportunity of being heard to the appellant. Needless to state, the assessee shall co-operate with the AO as and when called for and furnish

the required details and evidences promptly. The grounds are, accordingly, allowed for statistical purposes.

32. We make it clear that we have not expressed any opinion on the merits of the case, which shall be decided by the AO independently in accordance with law.

33. In the result, the appeal of the Revenue is treated as allowed for statistical purposes.

**ITA No. 980/SRT/2024 (AY 2021-22)**

34. Facts of the case, in brief, are that during the assessment proceedings, AO observed that the assessee had shown amount of Rs.6,33,831/- received from Ecom Express Limited as income from house property, the property involved must consist of building and land appurtenant thereto, but the building on the said land was not constructed by the appellant. In view of the same, the AO treated the amount of Rs.6,33,831/- as business income instead of income from house property, thereby disallowing the standard deduction of Rs.1,82,548/- @ 30% allowable u/s.24(1) of the Act.

35. Aggrieved by the order of the AO, assessee preferred appeal before the CIT(A). The CIT(A) observed that the terms and conditions in the lease agreement clearly indicated that the assessee had leased the land along with the structure thereon to the Ecom Express Pvt. Ltd. and Delivery Pvt. Ltd. and it

was not an open piece of land as held by the AO. In view of the same, CIT(A) directed the AO to treat the amount of Rs.6,33,831/- as income from house property and allow the standard deduction as per the law. Accordingly, the action of the AO to treat the amount received of Rs.6,33,831/- as business receipts was not upheld by the CIT(A).

36. Aggrieved by the order of the CIT(A), the revenue has filed present appeal before this Tribunal. The Ld. CIT-DR for the revenue contended that CIT(A) has erred in treating the amount of Rs.6,33,831/- as income from house property, even though the construction on the property was carried out by the companies and not by the assessee. The assessee has only handed over the bare land bearing No.534/1, FP -10, Jivaba Park, Opp. Rangavdhut Society, Surat, to the companies.

37. On the other hand, Ld. AR of the assessee reiterated the stand taken by the appellant before the CIT(A) and contended that the said disallowance had been made by the AO without giving any show-cause notice in this regard and that the observation made by the AO in respect of construction of building by the lessee is factually incorrect. The assessee had pointed out that in the rent agreement with Ecom express Pvt. Ltd., it is clearly mentioned that the lessee is given the permission to fix and alter the furniture and fittings in the leased premises including air conditioners, sanitary, installations, etc. It was also stated that the lessor (assessee) was responsible for payment of all the taxes in respect of the property, fire NOC, building insurance, etc., at his own cost and

that the lessor is required to complete the mentioned civil and allied amenities including fitting of lights, construction of two separate washrooms, electric supply of sub meter, DG set, additional way for entering into the premises and chemical earthing of the premises. Similarly, the rent agreement with Delivery Pvt. Ltd. clearly specified that the appellant had agreed to give Shed No. 1 to the lessee and the lessee should not alter/change/construct anything in the leased premises and the lessee was permitted to use the top of the building to install any communication or technical equipment for its own use at his own cost without causing any damage to the building. The Ld. AR, therefore, contended that aforementioned terms and conditions in the rent agreement has made it clear that the assessee had leased the land along with building/shed to both the companies (lessee) and that it was not the open land as held by the AO.

38. We have heard both the parties and perused the materials placed before us. The issue for adjudication is whether the rental income of Rs.6,33,831/- received by the assessee from Ecom Express Pvt. Ltd. and Delivery Pvt. Ltd. is to be taxed under the head 'Income from house property' as claimed by the assessee and allowed by the Ld. CIT(A), or under the head 'Profits and gains of business or profession' as held by the AO.

38.1 Section 22 of the Act reads as follows:

*“The annual value of property consisting of any buildings or lands appurtenant thereto of which the assessee is the owner, other than such portions as he may occupy for the purposes of any business or profession, shall be chargeable to income-tax under the head ‘Income from house property.’”*

38.2 Thus, to tax any rental income under this head, the following conditions must be satisfied: (a) that the property must consist of a building or land appurtenant thereto, (b) that the assessee must be the owner of such property; and (c) that the property must not be used by the assessee for business or profession. Once these conditions are fulfilled, the income is normally assessable under the head ‘Income from house property’. The character of the receipt or the purpose of lease by the lessee is irrelevant.

39. The Ld. CIT-DR has contended that the assessee handed over only bare land to the lessees and the construction thereon was carried out by the lessee companies themselves. Therefore, there was no “building” owned by the assessee and hence, the income cannot be taxed u/s 22 of the Act. We find this contention to be factually incorrect and legally untenable for the following reasons:

39.1 The lease agreements with Ecom Express Pvt. Ltd. and Delivery Pvt. Ltd. placed on record, and not disputed by the AO, clearly reflect that in the case of Ecom Express, the agreement stipulates that the lessor (assessee) was responsible for construction of civil and allied amenities, including: (a) provision of two separate washrooms; (b) installation of electrical fittings, sub-meter, DG set, chemical earthing; (c) construction of additional entryway; (d)

payment of property taxes, fire NOC, and insurance of the building at lessor's cost. These obligations clearly demonstrate that the assessee was the owner of a constructed structure and not merely an open plot of land.

39.2 In the case of Delivery Pvt. Ltd., the rent agreement explicitly states that the lessee was given "Shed No. 1", and that the lessee shall not make any alterations or constructions, further proving that the shed (a building) was pre-existing and owned by the assessee. Furthermore, the agreement allowed lessees only to fix or alter furniture or fittings, but not to construct any civil structure, which is a clear indication that the building/shed already existed and was owned and provided by the assessee. Thus, the assertion by the Ld. CIT(DR) that only bare land was leased out is contrary to the facts on record. Further, there is no dispute regarding ownership of the land and the superstructure by the assessee. The undisputed fact is that the assessee is receiving rent, paying property taxes and insuring the building and responsible for upkeep and maintenance of the premises. All these facts corroborate the assessee's ownership over both land and the building.

39.3 We also find that the AO has not brought any evidence or giving reasons to support why the letting of this property constitutes a business activity of the assessee. The AO has also not issued any show cause notice (SCN) to the assessee before recharacterizing the rental income. In absence of such fundamental procedural steps, the recharacterization made by the AO suffers from both factual and legal infirmities.

40. Accordingly, the grounds of appeal raised by the revenue on this issue are dismissed and the order of the Ld. CIT(A) is affirmed.

41. In the result, addition u/s 69A is set aside to the file of AO and addition of income from house property as business income is dismissed. Accordingly, appeal of the revenue in ITA No. 980/SRT/2024 is partly allowed for statistical purposes.

**ITA Nos. 970-971, 973-974, 977-979/SRT/2024 (AY: 2021-22)**

42. We find that the facts of the above seven appeals of revenue are similar to the facts of the case decided above in ITA No. 966/Srt/2024 and 980/Srt/2024 (supra). The grounds of appeals are also similar in all seven appeals. Hence, following the reasons given in ITA Nos.966 & 980/SRT/2024 for A.Y 2021-22, the additions u/s 69A are set aside to the file of AO and additions of income from house property as business income are deleted.

43. In the result, all the seven appeals of the revenue are partly allowed for statistical purposes.

44. In combined result, all the appeals of Revenue are partly allowed for statistical purposes as indicate above.

Order pronounced in accordance with Rule 34 of ITAT Rules, 1963  
on 16/10/2025 in the open court.

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

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

सूरत /Surat

दिनांक/ Date: 16/10/2025

**Dkp Outsourcing Sr.P.S\***

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 आधिकरण, सूरत/ DR, ITAT, SURAT
- गार्ड फाईल/ Guard File

By order/आदेश से,

// True Copy //

सहायक पंजीकार  
आयकर अपीलीय अधिकरण, सूरत