

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "A" BENCH

**Before: DR. BRR Kumar, Vice President
And Shri Siddhartha Nautiyal, Judicial Member**

**ITA No: 1576/Ahd/2025
Assessment Year: 2022-23**

Nirva Arvindkumar Patel HUF 11, Nobles residency, Nr. Vrundavan Society, Thaltej Shilaj Road, Thaltej Ahmedabad-380059 Gujarat PAN: AAGHN9361M (Appellant)	Vs	The ITO, Ward-3(1)(2), Ahmedabad (Respondent)
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**Assessee Represented: Shri Jayesh Gandhi and
Shri M .S. Chhajed, A.Rs.
Revenue Represented: Shri Kamal Deep Singh, Sr. D.R.**

Date of hearing : 08-12-2025
Date of pronouncement : 29-01-2026

आदेश/ORDER

PER : SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER:-

The present appeal has been filed by the Assessee against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (in short "NFAC") Delhi vide order dated 22-07-2025 passed for A.Y. 2022-23.

2. The Grounds of Appeal raised by the Assessee reads as under:

1. *The order passed by the Ld. CIT(A) is against law, equity & justice.*

2. Order passed by the Ld. CIT(A) is in violation of natural justice as notices sent on email id other than mentioned in Form No. 25.

3. The order passed by the Ld. A.O. is void & illegal and beyond scope for issues selected for scrutiny assessment.

4. The Ld. CIT(A) has erred in law and on facts in upholding the assessment order passed by the Ld. A.O. as the addition made by treating business income as income from other sources.

5. The Ld. CIT(A) has erred in law and on facts in upholding the addition made by the A.O. of Rs. 51,19,624/- as under reported income.

3. The brief facts of the case are that the assessee, a Hindu Undivided Family, filed its return of income for the Assessment Year 2022–23 on 28.07.2022 declaring a total income of Rs. 8,78,520/-. The return was selected for scrutiny under CASS on the ground that substantial loans were given by the assessee as reflected in Form 3CD in comparison to the gross total income shown in the return. During the course of assessment proceedings, the Assessing Officer asked the assessee produce details regarding the lending activities, source of funds, bank statements, details of loans advanced and borrowed, confirmations and related information. In response, the assessee submitted before the Assessing Officer that it was engaged in finance and investment activities. The assessee submitted before the Assessing Officer that funds were borrowed from friends and relatives and were further advanced as loans, mainly to family members, and that interest was paid on borrowings and earned on loans advanced. The assessee furnished copies of computation of income, unaudited balance sheet, profit and loss account, bank statements, confirmations of lenders, details of loans and advances, and interest details. When specifically asked whether the assessee was carrying on the business of money lending and whether any approval from the Reserve Bank of India had been obtained, the assessee

replied that no RBI approval was required as borrowings were only from friends and relatives. The Assessing Officer, however, was not satisfied with the explanation. The Assessing Officer observed that the assessee had borrowed funds from friends and relatives and had advanced the same only to family members, without any written agreements, collateral security or fixed terms which, according to him, were essential features of a money-lending business. The Assessing Officer further observed that the assessee was neither a registered NBFC nor had any statutory approval to carry on money-lending activities. On this basis, the Assessing Officer held that the activity could not be regarded as a business and that the income earned did not partake the character of business income. The Assessing Officer accordingly treated the interest income as “Income from Other Sources”.

4. While doing so, the Assessing Officer noted that the assessee had received interest of Rs. 98,09,734/- during the year and, according to him, had paid interest of only Rs. 38,11,713/-. He thus computed net interest income of Rs. 59,98,021/- and, after reducing the income already offered by the assessee under section 44AD of the Act at Rs. 8,78,397/-, the Assessing Officer made an addition of Rs. 51,19,624/- to the total income under the head “Income from Other Sources”. The total income was assessed at Rs. 59,98,144/- under section 143(3) of the Act and penalty proceedings under section 270A were also initiated.

5. Aggrieved by the assessment order, the assessee carried the matter in appeal before the Commissioner of Income-tax (Appeals). In the grounds of appeal, the assessee challenged the assessment order as being bad in law and on facts and as violative of principles of natural justice. The assessee

specifically contended that the Assessing Officer erred in treating business income as income from other sources merely on the ground that no formal permission was obtained from the RBI. The assessee submitted before the CIT(Appeals) that the assessee had been regularly carrying on the same lending activity over the years, offering income as business income, which had been accepted by the Department in earlier years. The assessee also contended that the Assessing Officer had grossly erred in extracting figures from the books of account and had wrongly taken the interest paid at Rs. 38,11,713/- instead of the correct figure of Rs. 90,27,561/-, resulting in an incorrect computation of net income.

6. Along with Form No. 35, the assessee filed a statement of facts reiterating that it was engaged in lending business under the name Aditya & Sons, that net interest income was correctly worked out at about Rs. 8.78 lakhs, and that the Assessing Officer had made a factual error in computing net interest income. It was also stated that the show cause notice proposing the variation could not be responded to in time and that the assessment was completed without proper consideration of the explanation.

7. During the appellate proceedings before the CIT (Appeals), notices of hearing were issued on several occasions. However, the assessee did not file any written submissions or supporting documents during the appellate stage. The CIT(Appeals), therefore, proceeded to decide the appeal on the basis of material available on record.

8. While adjudicating the grounds of appeal, the CIT(Appeals) noted that the substantive grievance of the assessee related to the addition of Rs.

51,19,624/- made by treating the income as “income from other sources” instead of “business income” and the alleged error in computation of net interest income. However, the CIT(Appeals) observed that despite multiple opportunities, the assessee had not filed any written submissions or documentary evidence to substantiate its claim that interest paid was Rs. 90,27,561/- and not Rs. 38,11,713/- as taken by the Assessing Officer. The CIT(Appeals) further observed that the assessee had not effectively pursued the appeal and relied upon judicial precedents holding that mere filing of an appeal without prosecuting it does not obligate the appellate authority to grant relief.

9. In the absence of any supporting material or reconciliation furnished during appellate proceedings, the CIT(Appeals) held that there was no reason to interfere with the findings of the Assessing Officer. Accordingly, the action of the Assessing Officer in treating the income as income from other sources and in making the addition of Rs. 51,19,624/- was upheld and all the grounds of appeal were dismissed.

10. The assessee is in appeal before us against the order passed by the CIT(Appeals) dismissing the appeal of the assessee.

11. We have heard the rival contentions and perused the material on record.

12. From the facts placed before us, it is evident that the core dispute in the present appeal relates to the nature of income earned by the assessee from lending activities and, more importantly, the correct computation of net interest income. The assessee has consistently taken a stand that it is

engaged in lending activities on a regular basis and that the interest income was rightly offered as business income. It has also been specifically contended that the Assessing Officer committed a factual error in computing net interest income by considering interest paid at Rs. 38,11,713/- instead of the actual interest payment of about Rs. 90,27,561/-, which, according to the assessee, has resulted in an inflated addition.

13. We find that the assessment order contains a detailed discussion on the nature of activities, but the computation of net interest income appears to be based on figures which are disputed by the assessee. The assessee, on the other hand, has pleaded that full details, books of account and bank statements were available and that a proper reconciliation would demonstrate that the addition made is factually incorrect. We also note that before the CIT(Appeals), the assessee could not effectively place the reconciliation and supporting documents on record, resulting in dismissal of the appeal on the basis of material available.

14. Considering the totality of facts and in the interest of substantial justice, we are of the view that the matter requires fresh examination at the level of the Assessing Officer. Issues relating to the correct amount of interest paid, interest received, reconciliation of figures from the profit and loss account, bank statements and ledgers, and the consequent computation of taxable income require verification. Such factual reconciliation cannot be conclusively undertaken at this stage without proper examination of primary records.

15. Accordingly, we deem it appropriate to restore the matter to the file of the Assessing Officer for de-novo consideration. The Assessing Officer shall re-examine the entire issue afresh, carry out necessary reconciliation of interest income and interest expenditure on the basis of books of account, bank statements and other supporting documents, and thereafter determine the correct taxable income in accordance with law after providing adequate opportunity of being heard to the assessee.

16. The appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 29-01-2026

Sd/-
(DR. BRR KUMAR)
VICE PRESIDENT
Ahmedabad : Dated - 29/01/2026

True Copy

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद