

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, AHMEDABAD**

BEFORE: SHRI SANJAY GARG, JUDICIAL MEMBER

AND

SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. Nos. 1439/Ahd/2025 & 1671/Ahd/2025

(निर्धारण वर्ष / Assessment Year : 2017-18)

Furnish Home U-ABC, Zanzar Flats, Nr. NRI Tower, Judges Bungalow Road, Bodakdev, Ahmedabad, Gujarat- 380054	बनाम/ Vs. &	Income Tax Officer Ward 3(3)(1), Ahmedabad [Old Income Tax Officer, Ward 3(3)(2), Ahmedabad]
Income Tax Officer Ward 3(3)(1), Ahmedabad		Furnish Home Unit-ABC, Zanzar Flats, Nr. NRI Tower, Judges Bungalow Road, Bodakdev, Ahmedabad, Gujarat- 380054
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAFF8703B		
(Appellant)	..	(Respondent)

Assessee by :	Shri Mahesh Chhajed, A.R.
Revenue by :	Shri Arvind Kumbhare, Sr. DR

Date of Hearing	19/01/2026
Date of Pronouncement	30/01/2026

ORDER

PER ANNAPURNA GUPTA, AM:

The cross appeals have been filed by the Assessee and Revenue against the order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (hereinafter

referred to as “NFAC”), Delhi (hereinafter referred to as “CIT(A)”) dated 10.06.2025 passed under Section 250 of the Income Tax Act, 1961 (hereinafter referred to as the “Act”) and relates to Assessment Year (A.Y.) 2017-18.

2. Briefly stated, the assessee is a partnership firm engaged in the business of trading in furniture and furnishings. For the impugned year, the assessee had filed return of income declaring loss of Rs.2,00,985/-. The case of the assessee was taken up for scrutiny and assessment framed making addition of Rs.1,20,32,482/- to the income of the assessee on account of following:

- i. Cash deposits in the bank account of the assessee remaining unexplained Rs.26,93,360/-
 - ii. Credits in the bank account other than cash deposits remaining unexplained Rs.51,00,241/-
 - iii. Import payments and custom duties disallowed by way of evidence amounting to Rs.42,35,881/-
- Total Rs.1,20,32,482/-

The AO computed the income of the assessee at Rs.1,20,32,482/- taking the returned income as Nil as opposed to loss of Rs.2,00,985/- returned by the assessee.

3. The assessee carried the matter before the Ld. CIT(A), wherein detailed submissions supported by the books of accounts, statutory returns, confirmation and other documentary evidences were filed. A remand report of the AO was sought on the same by the Ld. CIT(A) after considering which, Ld. CIT(A) deleted

most of the additions/disallowance made by the AO, confirming only the addition of cash deposits made in the bank account of the assessee that too partially, to the tune of Rs.6,96,360/- as opposed to Rs.26,96,360/- added by the AO on this account. The assessee also claimed set off of losses of Rs.2,00,985/- returned by it which, the Ld. CIT(A) held the same to be allowable for the purpose of determining the income of the assessee. However, he clarified that no carry forward of loss would be permitted under Chapter VI of the Act.

4. Aggrieved by the same, the assessee has come up in appeal before us challenging the order of the Ld. CIT(A) for having confirmed the addition made u/s.68 of the Act on account of cash deposits amounting to Rs.6,96,360/- raising following grounds in its appeal in ITA No.1439/Ahd/2025 as under:

- “1. *The order passed by the Ld. CIT (A) is against law, equity & justice.*
2. *The Ld. CIT(A) has erred in law and on facts in upholding the addition made U/S 68 of the Act by the Ld. A.O. of Rs.6,96,360/- for cash deposit in bank.*
3. *The appellant Craves liberty to add, amend, alter or modify all or any grounds of appeal before final appeal.”*

5. While the Revenue has challenged the deletion of addition made by the AO as well as the allowance of set off of losses for computing the income of the assessee for the impugned year by the Ld. CIT(A), raising the following grounds in its appeal in ITA No.1671/Ahd/2025 :

- “(a) *The Ld. CIT(A) has erred in law and on facts in granting partial relief of Rs. 20,00,000/- on the addition of Rs. 26,96,360/- u/s 68 for cash deposits by accepting additional evidence unsubstantiated claims of cash availability from business and sales and bank withdrawals, failing to verify their direct linkage and genuineness, and ought to have confirmed the entire amount as unexplained.*
- (b) *The Ld. CIT(A) has erred in law and on facts by deleting the addition of Rs. 51,00,241/-u/s 68 for cheque credits, relying solely on confirmations, PANs, ITRs, and ledger entries without independent verification of creditworthiness or genuineness, ignoring the AO's valid doubts about possible accommodation entries.*
- (c) *The Ld. CIT(A) has erred in law and on facts by deleting the addition of Rs. 42,35,881/- u/s 69 for import payments and customs duty, accepting book entries and documents like invoices and challans without ensuring the source of funds or business purpose, thereby failing to uphold the Assessing Officer's finding of unexplained investment.*
- (d) *The Ld. CIT(A) has erred in law and on facts by allowing the business loss of Rs. 2,00,985/- based solely on audited financials, without examining the underlying expenses' genuineness or business nexus, and failed to provide the AO an opportunity to rebut additional evidence, violating Rule 46A and principles of natural justice.*
- (e) *The appellant craves leave to add, alter and/or to amend all or any the ground before the final hearing of the appeal.”*

6. We have heard both the parties and gone through the order of the Ld. CIT(A). The Ld. CIT(A) in his decision has discussed the nature of the issue, the disallowance of the AO in the remand report and the assessee's submission in response to the remand report, and after considering all has finally adjudicated each issue before him. We shall, therefore, be reproducing the order of the Ld. CIT(A) with respect to each issue for adjudicating the same before us, since, both the parties before us have relied on the findings noted by the Ld. CIT(A) in his order. Ld. DR has

relied on the remand report of the AO while challenging the deletion of the addition made by the AO and the Ld.Counsel for the assessee has relied on the assessee's submissions made before the Ld. CIT(A) as also his findings in support of his order of the Ld. CIT(A) deleting disallowances and also challenging the confirmation of disallowance/addition made by the AO.

7. Taking up the first issue of addition of Rs.26,96,360/- made by the AO u/s.68 of the Act on account of cash deposits in bank. The discussion by the Ld. CIT(A) with respect to the same is contained at para 6.1 of this order as under:

“6.1 Addition of Rs.26,96,360/- u/s 68-Cash Deposits in Bank

1. Nature of the Issue:

The Assessing Officer (AO) made an addition of Rs.26,96,360/- under Section 68 of the Income-tax Act, 1961, in respect of cash deposits made by the appellant into its HDFC Bank account. The AO concluded that the appellant failed to provide a satisfactory explanation regarding the nature and source of these deposits and that the evidentiary support offered during assessment was insufficient to establish the legitimacy of the funds. Consequently, the cash deposits were treated as unexplained cash credits in the hands of the appellant.

2. AO's Observations in Remand Report:

In the remand proceedings, the AO reiterated the original stance, emphasizing that the appellant had not substantiated the origin of the deposited cash with reliable and verifiable documentary evidence. Although the appellant had shown withdrawals aggregating to Rs.21,00,000/- in its cash book on various dates (15/07/2016, 22/07/2016, 29/07/2016, 17/08/2016, 06/09/2016, and 14/09/2016), these entries corresponded to "CHQ PAID" transactions in the HDFC Bank statement, and there was no specific evidence, such as cheque counterfoils or encashment slips, to prove that these were indeed self-withdrawals in cash. The AO argued that merely showing such entries in the books does not discharge the onus under Section 68, especially when the narrative of repeatedly withdrawing cash only to redeposit it lacks commercial logic or

economic necessity. The AO, therefore, recommended that the explanation be rejected and the entire addition be sustained.

3. Appellant's Submission:

During appellate proceedings, the appellant submitted a comprehensive set of documents, including copies of the cash book, bank book, VAT returns, monthly sales registers, and a certificate from HDFC Bank. The said certificate stated that the entries marked as "CHQ PAID" in the bank statement represented self-issued cheques withdrawn by the appellant in cash. The appellant contended that the firm had recorded substantial cash sales during the relevant period, which were duly reported in its VAT returns and reflected in the sales ledger. These, combined with cash withdrawals from the bank, established a legitimate cash trail explaining the source of deposits. It was further argued that taxing such deposits would lead to double taxation, as the sales income had already been accounted for in the appellant's books and tax filings.

4. Analysis and Decision:

Upon careful consideration of the assessment order, the remand report, and the appellant's submissions, the following emerges:

i)The appellant has recorded total withdrawals of Rs.21,00,000/- in the cash book, corresponding to six transactions over a period of two months. These are claimed to be cash withdrawals intended for business needs and subsequently redeposited into the bank.

ii) The narration "CHQ PAID" in the bank statement, however, does not conclusively prove that these were cash withdrawals. The absence of cheque numbers, withdrawal slips, or documentary trail weakens the verifiability of the explanation,

iii)While the bank certificate submitted during appellate proceedings clarifies that the said entries pertain to self-withdrawals, no third-party or contemporaneous external corroboration (such as teller-confirmed encashment or cheque images) was filed to support the claim.

iv)No day-wise or transaction-wise reconciliation was submitted linking specific withdrawals or sales proceeds to the exact deposits in the bank account. The explanation of withdrawing cash and later redepositing it despite already having opening cash balance appears economically inefficient and lacks prudence. appears

v)Nevertheless, the appellant's books of account are audited. The VAT returns substantiate the occurrence of cash sales. The AO has not disputed the genuineness of the sales, nor has the AO invoked

Section 145 to reject the books. These factors lend partial credibility to the appellant's claim of cash availability.

In light of the above, a balanced and judicial view is warranted. While the full explanation fails to meet the evidentiary threshold for the entire sum, it would be unjust to ignore the available records and tax-paid turnover reflected in statutory returns. Therefore, I consider it reasonable to accept the appellant's explanation to the extent of Rs.20,00,000/-, being adequately supported by the aggregate of declared cash sales and claimed cash withdrawals. The remaining Rs.6,96,360/-, for which no direct evidence or cash trail has been provided, is accordingly treated as unexplained cash credit under Section 68 of the Act and is confirmed.”

8. A perusal of the above reveals that the addition relates to cash found deposited in the HDFC Bank account of the assessee and in the absence of any specific explanation regarding the source of the same, the AO added the said cash deposits to the income of the assessee u/s.68 of the Act treating them as unexplained cash credits. The assessee's explanation of the source of the cash deposits was the withdrawals from the bank and cash sales made by it. While going through the analysis and discussion of the Ld. CIT(A), we find that he has found the assessee's explanation of cash withdrawals from the bank to be duly substantiated with the bank certificate. The Ld. CIT(A) has noted no conclusive evidence to have been filed by the assessee to prove the cash withdrawals made from the Bank, but at the same time, he also noted the assessee to have furnished a certificate from the Bank in this regard. The Ld. CIT(A) also noted the assessee's books of accounts to be audited and VAT returns furnished substantiating the occurrence of cash sales. He also noted the fact that the AO has not disputed the genuineness of the sales nor he invoked Section 145 of the Act to reject the

books of accounts of the assessee. Having noted these facts, he has gone on to hold that taking a balanced and judicial view, he accepts the assessee's explanation of cash deposited in the bank account being out of withdrawals and cash sales to the tune of Rs.20 Lakhs while the remaining, he treats as unexplained on account of no direct evidence or cash trail being provided.

9. We do not find any merit or logic in the reasoning given by the Ld. CIT(A). It is an admitted fact that the assessee had attributed the cash deposit in his bank as being out of cash sales made by him and also out of cash withdrawals from the Bank. The assessee had submitted his complete books of accounts, which were duly audited and which reflected the fact of source of cash deposits in the bank from these sources. The fact of assessee having withdrawn cash from the Bank, which was doubted by the Revenue authorities, was substantiated by the Banker's certificate in this regard. Cash sales made by the assessee was duly substantiated with the VAT returns filed by the assessee reflecting the said fact. No infirmity or defect was found in the books of accounts of the assessee and the same were also not rejected by the AO u/s.145(3) of the Act. In the light of the above, we agree with the contention of the Ld. Counsel for the assessee that the source of cash deposited in the bank account was duly explained and substantiated as being out of cash sales and cash withdrawals made by the assessee. The audited books of accounts furnished by the assessee reflecting the said fact, the VAT returns of the assessee and Banker's certificate evidencing and confirming the cash sales and cash withdrawals made by the

assessee, all substantiate and evidence the explanation of the assessee. The Ld.CIT(A), we have noted, agrees that it would be unjust to ignore the available records and the tax paid turnover reflected by the assessee. However, we find that while confirming the remaining addition of Rs.6,96,360/-, the Ld. CIT(A) arbitrarily notes and find no direct evidence or cash trail to have been provided by the assessee as the reason for confirming the addition. We fail to understand what direct evidence or cash trail the Ld. CIT(A) was seeking when in the earlier part of his order, he agrees that it would be unjust to ignore the available records and the tax paid turnover of the assessee. Having found the assessee's explanation and evidences to have sufficiently established the source of cash deposited in the bank account of the assessee and finding no merit in the reasoning of the Ld. CIT(A) for confirming the addition made on this account to the tune of Rs.6,96,360/-, we hold that the entire additions made on this account was grossly unjustified and direct deletion of the entire addition made to the income of the assessee u/s.68 of the Act amount to Rs.26,96,360/-. The order of the Ld. CIT(A) deleting the addition to the tune of Rs.20 Lakhs is, therefore, confirmed while his order confirming addition to the tune of Rs.6,96,360/- is held to be incorrect. The ground raised by the assessee in its appeal in ITA No.1439/Ahd/2025 in Ground No.1 is allowed while the ground raised by the Revenue in its appeal in ITA No.1671/Ahd/2025 in Ground No.1 is dismissed.

10. Taking up the next issue of addition of Rs.51,00,241/- made u/s.68 of the Act on account of cheque credits in the bank

account of the assessee, the Ld. CIT(A) has dealt with the same at para 6.2 of his order as under:

“6.2 Addition of Rs.51,00,241/- u/s 68 - Cheque Credits

1. Nature of the Issue:

The Assessing Officer (AO) made an addition of Rs.51,00,241/- under Section 68 of the Income-tax Act, 1961, on the ground that certain cheque credits appearing in the appellant's bank account were unexplained. The credits primarily comprised of (i) capital contributions from partners, (ii) receipts from a customer entity, namely Das Hari Hotels Pvt. Ltd., and (iii) refund of earlier advances given to third parties. In the absence of a detailed explanation at the time of original assessment, the AO proceeded to treat the entire amount as unexplained cash credits and added it to the total income.

2. Appellant's Submission:

In the course of appellate proceedings, the appellant furnished comprehensive details to substantiate the nature and source of these cheque credits:

i) Partner Contributions (Rs.12,00,000/-): The appellant submitted PAN copies, Income Tax Returns (ITRs), and capital account statements of the partners in support of their identity and financial capacity. The amounts received were credited to the firm's books as capital contribution, and the corresponding payments were routed through banking channels.

ii) Receipts from Das Hari Hotels Pvt. Ltd. (Rs.25,00,241/-): These were supported by a detailed ledger of the customer, matching bank entries and sales invoices. The appellant showed that the receipts were against regular sales duly reflected in the books and supported by VAT returns.

iii) Refund of Advances (Rs.14,00,000/-): The appellant had earlier advanced funds to certain suppliers/customers, which were later refunded via cheque. The ledger accounts of the relevant parties, bank statements, and confirmation letters were submitted to demonstrate the return of advances.

Each transaction was routed through identifiable banking channels and properly reflected in the audited books of accounts. The appellant argued that it had duly discharged its onus under Section

68 by establishing the identity of the creditors, genuineness of the transactions, and creditworthiness of the parties.

3. *AO's Observations in Remand Report:*

In the remand report, the AO did not provide any contrary evidence or specific rebuttal to the documentation furnished. The AO merely stated that the "nature of receipts is not clear, without issuing any further notice under Section 133(6) or invoking Section 131 to summon the concerned parties. No adverse material was brought on record to disprove the appellant's claims or to contradict the veracity of the documents submitted.

4. *Analysis and Decision:*

From the records, it is evident that the appellant has submitted complete documentation covering all three essential limbs required to explain cash credits under Section 68: identity of the person, genuineness of the transaction, and creditworthiness of the creditor. The capital contribution by partners is a routine business feature and stands explained through PAN, ITRs, and bank statements. Judicial precedents consistently hold that once the partners are identified and they confirm the transaction in their own tax filings, the firm cannot be penalized for the source of funds in the hands of the partners (CIT v. Lovely Exports Pvt. Ltd. [2008] 216 CTR 195 (SC)).

In respect of receipts from Das Hari Hotels Pvt. Ltd., the entries are fully backed by sale invoices, VAT declarations, and customer ledger matching the bank statement. The AO's failure to dispute the sales itself weakens the basis for treating the receipt as unexplained.

Similarly, the refund of advances is supported by complete documentation. There is no finding by the AO that such advances were non-genuine or that the funds were routed through accommodation entries.

In the absence of any inquiry or counter-evidence from the AO during remand proceedings, the additions appear to be based on suspicion rather than tangible material. It is settled law that suspicion, however strong, cannot take the place of proof. TAX DEP

Accordingly, in view of the complete discharge of onus by the appellant and no rebuttal by the AO, I hold that the entire addition of Rs.51,00,241/- is unwarranted and is hereby deleted in full."

11. A perusal of the above reveals that cheque credits in the bank account of the assessee amounting to Rs.51,00,241/- were treated as unexplained and added to the income of the assessee. The credits comprised primarily of capital contributions from the partners, receipts from a customer entity, namely Das Hari Hotels Pvt. Ltd. and refund of earlier advances given to third parties. The Ld. CIT(A) analyzed all explanation and submissions and noted that the assessee submitted complete documentation covering all the essential elements required to explain cash credits i.e. identity of the person, genuineness of the transaction and creditworthiness of the creditors. He noted that with respect to the credits explained as capital contributed by partners, the assessee had submitted PAN, ITR and bank statement of the partners. With respect to the receipts from Das Hari Hotels Pvt. Ltd., the Ld. CIT(A) noted entries to be backed by sales invoices VAT returns and customer ledger, cash, bank statement. With respect to refund of advances, he noted the same to be supported by due documentation being ledger account of the relevant parties bank statement and confirmation letters of the said parties. He found the AO to have not provided any contrary evidence or specific rebuttal to the documents filed by the assessee. No adverse material, he noted was brought on record by the AO to disprove the assessee's claim or contradict the documents submitted. Noting the facts as above, he deleted the entire addition made by the AO on account of cheque credits in the bank account amounting to Rs.51,00,241/-.

12. Before us, the Ld. DR was unable to controvert the factual findings of the ld. CIT(A) leading to his decision that the source of all the cheque credits in the bank were duly explained by the assessee with necessary documentation. In the light of the same, we see no reason to interfere in the well-reasoned order of the Ld. CIT(A) on this issue and accordingly, uphold the deletion of addition made by him of Rs.51,00,247/- u/s.68 of the Act. Ground of appeal no.2 raised by the Revenue in ITA No.1671/Ahd/2025 is dismissed.

13. The next issue relates to addition of Rs.42,35,881/- u/s.69 of the Act pertaining to import payments and customs duty. The Ld. CIT(A) had dealt with the same at para 6.3 of the order as under:

“6.3 Addition of Rs.42,35,881/- u/s 69-Imports and Customs Duty

1. Nature of the Issue:

The Assessing Officer (AO) made an addition of Rs.42,35,881/- under Section 69 of the Income-tax Act, 1961, on the ground that certain import payments and customs duty expenses recorded in the appellant's books represented unexplained investments. It was alleged that the appellant failed to satisfactorily explain the nature and source of these payments, and accordingly, the AO treated the entire amount as not recorded or properly accounted for in the books of account,

2. Appellant's Submission:

In the course of appellate proceedings, the appellant submitted a comprehensive explanation backed by documentary evidence to justify the import transactions and customs duty payments. The following documents were placed on record:

i) Import invoices raised by M/s ANR International Ltd., the foreign supplier:

ii) *Bill of Entry and packing lists, indicating the details of goods imported, quantity, value, and customs reference numbers;*

iii) *Bank statements from HDFC Bank, clearly showing remittance of funds to the foreign supplier via banking channels;*

iv) *Customs duty challans reflecting the amount paid at the port towards clearance of the imported goods;*

v) *Relevant entries in the purchase ledger and inventory records that reflected the value of goods received and accounted for;*

vi) *Audited financial statements, showing the purchases and related duty expenses duly incorporated in the books.*

The appellant submitted that the payments were fully banked, duly accounted for, and related to import of stock-in-trade used in the regular course of business. It was further emphasized that once the transaction is recorded in the regular books and supported by documentary trail, invoking Section 69-meant for unrecorded investments-was wholly inapplicable.

3. AO's Observations in Remand Report:

In the remand proceedings, the AO did not dispute the authenticity of the import invoices, the remittance through bank, or the customs clearance documents. However, the AO merely stated that the "purpose" of these entries was not clear, without issuing any notice to the supplier, disputing the import value, or suggesting that the purchases were bogus. No discrepancy was pointed out either in the quantitative details of stock or in the valuation of inventory.

4. Analysis and Decision:

Section 69 of the Act is attracted only where an investment is made and not recorded in the books of account maintained by the assessee. In the present case, the appellant has conclusively demonstrated that:

i) *The import payments were made through verifiable banking channels to an identified foreign supplier;*

ii) *The goods were physically received, customs duty paid, and goods cleared against proper documentation;*

iii) The value of imports and duties were duly entered in the purchase ledger, stock register, and audited accounts,

iv) The bank statement, bill of entry, and import invoice align with each other both in value and in timing:

v) No discrepancy has been found in the valuation of closing stock or in profit computation that would suggest inflation or manipulation.

Once the transaction is embedded in the books, supported by bills, stock records, and banking proof, there is no basis for invoking Section 69. The AO has not pointed out any instance of suppression, overstatement, or fabrication of expenses. The vague remark in the remand report that the "purpose is not clear" is insufficient to justify a serious statutory presumption of unexplained investment. It is also noted that no effort was made by the AO to issue notice under Section 133(6) or Section 131, nor was there any rejection of books under Section 145.

In light of the above, and in the absence of any adverse finding on the appellant's accounting or stock maintenance, the addition of Rs. 42,35,881/- under Section 69 is entirely unjustified and is hereby deleted in full."

14. A perusal of the above would reveal that addition was made on the ground that certain import payments and custom duty expenses recorded in the assessee's books represented unexplained investment. The assessee explained the nature of these investments duly backed with evidences stating that they were on account of imports from one M/s. ANR International Ltd. and submitted copies of import invoices raised by the said party. Bill of entry and packing lists, bank statements showing remittance of funds to the foreign supplier, customs duty challans reflecting the amount paid at the port towards clearance of the imported goods, relevant entries in the purchase ledger and inventory records reflected the value of goods received and accounted for and the audited financial statement showing the purchase and related duty expenses duly incorporated in the

books. The AO, in remand proceeding, did not dispute the authenticity of the documents submitted by the assessee, but merely, stated that purpose of these entries was not clear. The Ld. CIT(A) found the assessee to have sufficiently explained the investment made by it by way of purchase of goods imported and payment of duty thereon and found no reason with the AO for having rejected the explanation of the assessee, while deleting the addition made by the AO.

15. Before us, the Ld. DR was unable to controvert the factual findings of the Ld.CIT(A) as above. In view of the same, we see no reason to interfere in the order of the Ld. CIT(A) deleting the addition made on account of unexplained investment amounting to Rs.42,35,881/-. Ground of appeal no.3 raised by the Revenue in its appeal in ITA No.1671/Ahd/225 is, therefore, dismissed.

16. The next issue relates to the disallowance of business loss. This issue has been dealt with by the Ld. CIT(A) at para 6.4 of his order as under:

“6.4 Disallowance of Business Loss - Rs.2,00,985/-

1. Nature of the Issue:

The Assessing Officer (AO) disallowed the claim of business loss amounting to Rs.2,00,985/- on the sole ground that the appellant had not filed the original return of income under Section 139(1) of the Income-tax Act, 1961. The AO took the view that, in the absence of a valid return, the loss could not be accepted or carried forward.

2. Appellant's Submission:

During the appellate proceedings, the appellant clarified that while the original return could not be filed within the due date owing to

unavoidable circumstances, the loss claimed was based on regular business activity during the year. In support of its claim, the appellant submitted:

- i) Audited financial statements and tax audit report prepared in accordance with Section 44AB;*
- ii) Detailed profit and loss account, balance sheet, and ledger extracts;*
- iii) Books of account that were produced during the assessment proceedings and verified by the AO;*
- iv) No discrepancies or adverse remarks noted by the AO in the examination of such books;*
- v) A submission that the loss was a genuine business loss, not a notional or artificial adjustment.*

The appellant relied on judicial pronouncements which state that genuine loss, even if not eligible for carry forward, must still be considered while computing the correct income for the assessment year.

3. Analysis and Decision:

The AO has not disputed the genuineness of the business loss, nor has there been any rejection of books of account under Section 145(3). The audited accounts submitted by the appellant reflect the business activity and corresponding net loss for the year. No findings have been recorded by the AO suggesting that the loss is fictitious or artificially inflated. There is also no indication that any particular expenditure or income item was disallowed or adjusted.

It is a settled principle that a loss incurred during the year, when supported by books of account and financial statements, must be allowed in the computation of total income. While Section 80 of the Act restricts the carry forward of loss in the absence of a return under Section 139(1), such restriction does not apply to the determination of the current year's income or loss. The disallowance made by the AO, solely on the procedural lapse of non-filing a return, overlooks the fact that assessment under Section 143(3) has been completed on the basis of books produced and examined.

Accordingly, since the loss is genuine, book-supported, and verified, and in the absence of any finding to the contrary, the

disallowance of Rs.2,00,985/- is not sustainable and is hereby deleted. The loss is allowed for the purpose of determining the income for the year. However, it is clarified that no carry forward of this loss shall be permitted under Chapter VI of the Act, in view of the limitation under Section 80.

17. A perusal of the above reveals that the assessee had returned business loss of Rs.2,00,985/-, however, while computing the income of the assessee, the AO had not allowed set off of the said loss. The Ld. CIT(A) after considering the law in this regard held that loss was genuine, book supported & verified and in the absence of any finding to the contrary by the AO, the assessee, therefore, he held was entitled to set off of said business loss from his assessed income. However, he stated that the assessee was not entitled to carry forward this loss in terms of Section 80 of the Act.

18. Ld. DR was unable to point out any infirmity in the finding of the Ld. CIT(A) as above. Moreover, since, we have deleted all additions made in the hands of the assessee, the income returned by the assessee being loss of Rs.2,00,985/- remains as assessed and accepted and there is no occasion of claiming any set off of the same from the income of the assessee for the impugned year. The Ld. CIT(A) in any case has not allowed carry forward of the said business loss having been claimed in a return of income, which was filed belatedly. Since, the assessee has not challenged the same before us, in the light of the same, ground raised by the Revenue with respect to the allowance of business loss, we find is no longer relevant and is, therefore, dismissed.

Ground No.4 raised by the Revenue in its appeal in ITA No.1671/Ahd/2025 is accordingly dismissed.

19. In the combined result, the appeal of the assessee is allowed, whereas, Revenue's appeal is dismissed.

This Order pronounced on 30/01/2026

Sd/-
(SANJAY GARG)
JUDICIAL MEMBER

Ahmedabad; Dated 30/01/2026

S. K. SINHA

True Copy

आदेश की प्रतिलिपि अद्येषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad