



**IN THE INCOME TAX APPELLATE TRIBUNAL,  
RAJKOT BENCH, RAJKOT**

**BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER  
AND  
DR. DINESH MOHAN SINHA, JUDICIAL MEMBER**

**आयकरअपीलसं./ITA No. 34/RJT/2025  
Assessment Year: (2017-18)**

Viren Vallabhidas Dhakan Prop of M/s. Zaveri H Parsottamdas and Bros, Palace Road, Rajkot – 360001, Gujarat	Vs.	Asstt. Commission of Income Tax, Circle – 2(1), Aayakar Bhavan, Race Course Ring Rajkot – 360001, Gujarat
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AABPZ2287K</b>		
(Appellant)		(Respondent)

Appellant by : Shri D. M. Rindani, Ld. A.R.  
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR  
Date of Hearing : 15/12/2025  
Date of Pronouncement : 11/03/2026

**आदेश / ORDER**

**Per Dr. Dinesh Mohan Sinha, JM:**

Captioned appeal filed by the assessee, pertaining to Assessment Year (AY)-2017-18, is directed against the order passed by the Commissioner of Income Tax [(in short “Ld.CIT(A)”] vide order dated 22.11.2023, which in turn assessment order passed by Income Tax Department/Assessing Officer under section 143(3) of the Income Tax Act, 1961 (in short “the Act”), vide order dated 29.12.2019.

2. Grounds of appeal raised by the assessee are as follows:

*“1. The Learned Commissioner Of Income Tax (Appeals), National Faceless Appeal Centre Has Erred In Confirming The Action Of The Assessing Officer In Respect Of Assessed The Total Income Of Rs.33,53,640/- As Against The Returned Income Of Rs.13,53,640/- It Is Totally Wrong, Unwarranted, Unjustified And Bad In Law*



2. *The Learned Commissioner Of Income Tax (Appeals), National Faceless Appeal Centre Has Erred In Confirming The Action Of The Assessing Officer In Respect Of Unsecured Loan Taken From Others Amounting To Rs.20,00,000/- Is Treated As Unexplained Cash Credit U/S.68 Of The I T Act It Is Totally Wrong, Unwarranted, Unjustified And Bad In Law.*

3. *The Learned Commissioner Of Income Tax (Appeals), National Faceless Appeal Centre Has Erred In Confirming The Action Of The Assessing Officer In Respect Of Wrongly Applied The Section 115bbe Of The It Act And Taxed At Higher Rate And Initiated The Huge Demand Of Rs.20,43,614/- It Is Totally Wrong, Unwarranted, Unjustified And Bad In Law.*

4. *The Learned Commissioner Of Income Tax (Appeals), National Faceless Appeal Centre Has Erred In Confirming The Action Of The 4 Assessing Officer In Respect Of Initiated The Penalty Proceedings U/S.271aac Of The It Act It Is Totally Wrong, Unwarranted, Unjustified And Bad In Law.*

5. *The Learned Commissioner Of Income Tax (Appeals), National Faceless Appeal Centre Has Erred In Confirming The Action Of The Assessing Officer In Respect Of Charging The Interest U/S.234a, 234b, 234c It Is Totally Wrong, Unwarranted, Unjustified And Bad In Law.*

6. *Your Applicant Reserves The Right In Addition Or Alteration In The Grounds Of Appeal At The Time Of Hearing.”*

3. At the outset, that the appeal filed late by 363 days. The Ld. AR of the assessee has filed an application for condonation of delay, supported by Affidavit. The relevant para of the application for delay is as under;

*“That the impugned order u/s 250 of the Act dated 22-11-2023 was not delivered to the Appellant and hence the Appellant was not aware about the passing of the impugned order.*

*That thereafter, the Appellant was in receipt of notice u/s 271AAC(1) on 06-01- 2025 wherein it was mentioned that the CIT(A) has dismissed your appeal vide order dated 22-11-2023 and that the Appellant was requested to show cause as to why penalty u/s 271AAC(1) should not be levied. The said notice was forwarded to his tax consultant by the Appellant for further course of action.*

*That thereafter, the tax consultant of the Appellant logged in to E-filing Portal to check about the aforesaid notice u/s 271AAC(1) during which the status about the appeal pending before the CIT(A) was also checked by the said consultant*

*That thereafter, the impugned order u/s. 250 of the Act was downloaded from the E-filing Portal by the tax consultant of the appellant and it came to be noticed that the first appeal of the Appellant was already disposed of on 22-11-2023 by the CIT(A).*



*That thereafter all required documents were sent to tax consultant of the appellant who prepared the appeal memo and papers and signatures, payments of appeal fee was made and then the present appeal to the Hon'ble Tribunal was filed on 18.01.2025.”*

4. During the course of the hearing, the Ld. AR submitted that the assessee was not aware about the fixation of hearing and also not know about the legal procedure and prayed for one more opportunity to the assessee to explain this case.

5. On the contrary, the Ld. DR for the revenue has no objected to the prayer of the Ld. AR , the Ld. DR prayed that the assessee must be directed to present his case before the Ld. AO, and do not seek unnecessary adjournments.

6. We have heard both the parties. We note that delay of filing before this Tribunal That deponent was not being well-versed in the intricate provisions of taxation and legal procedures, relied entirely on professional guidance for compliance/submission with the appeal filing requirements. We have considered the submission advance by the AR the assessee is found to have a "sufficient cause" for delay in filing present appeal. We find that section 253(5) of the Act empowers the ITAT to admit an appeal after expiry of prescribed time, if there is a "sufficient cause" for not presenting appeal within prescribed time. In the interest of justice, we take a judicious view and we condoned the delay in filing appeal by 363 days.

7. Brief facts of the case are that the assessee has filed its return of income on 30.08.2017 declaring therein total income at Rs.13,53,640/-. The return of income has been processed u/s. 143(1) of the I. T. Act, 1961. The case was selected for complete scrutiny on the issue

“(1) Undisclosed income reported during demonetization,



- (2) Abnormal increase in cash deposits during demonetization period as compared to pre-demonetization period. Notice u/s 143(2) of the Act was issued on 22-09-2018 .

In compliance, the assessee has submitted incomplete details of the creditors. The burden is on the assessee to explain the nature and source of such credit. The assessee failed to discharge his onus to prove the credit-worthiness of the creditor/genuineness of the transaction. That while making the assessment on dated 25.12.2019, the sum of Rs. 20,00,000/- is hereby added to the total income of the assessee as unexplained credits and taxed as per the provisions of section 115BBE of the Act.

8. That the assessee filed an appeal against the order of AO dated 29.12.2019 before the Ld.CIT(A). That the Ld.CIT(A) has dismissed the appeal of the assessee by following remarks:

*“6.7 In view of facts of the case and available judicial precedent is favour of the revenue, I am of the considered view that Assessing Officer was correct in making addition of Rs. 20,00,000/- towards un-verified cash credits in books of the appellant under section 68 of the Act. Hence, the addition of Rs. 20,00,000/- is hereby confirmed.*

*7. In the result, appeal filed by the appellant is dismissed”*

9. That the assessee filed an appeal against the impugned order dated 22.11.2023 passed by the Ld.CIT(A) before this Tribunal.

- a. During the course of hearing, the Ld. AR of the assessee submitted that details were submitted before the authorities.
- b. On the contrary, the Ld. Sr. DR for the revenue relied on the order of the Ld.CIT(A).



10. We have heard rival contention of both the parties and perused the material available on record. We note that the assessing officer has made addition of Rs. 20,00,000/- under section 68 of the Act holding that credit-worthiness of the three creditors who had extended unsecured loan to the appellant during the year, as well as genuineness of the transaction, remained unproved. The ITRs, bank statements and loan confirmations of the three creditors have been analysed. The AO findings are as under:

1. *All three creditors are related Individuals residing at the same address at Rajkot.*
2. *All the three unsecured loans were given to the appellant during the month of August, 2016, in fact on same date i.e. 30.08.2016.*
3. *In case of Sh. Ashwin J Trivedi, fund of Rs. 8,00,000/- was transferred to the appellant on 05.09.16 through account at UCO Bank (A/c no. 00520100001056). The source of this fund transfer is from cash deposit of Rs. 8,00,000/- on 30.08.16 when there was credit balance of Rs. 10,242/- in the bank account. Other transactions in the bank statement for the prior or subsequent period are of small denominations.*

11. We note that the appellant is into jewellery business through his proprietorship concern M/s Zaveri H. Parsottamdas & Bros., Rajkot. As far as giving of unsecured loan is concerned, the Assessing Officer has observed that there was immediate cash deposit before transfer of funds to the appellant's account in all the three cases. That the assessee has submitted that since the assessee has produced the documents related to the transaction. The same should be treated as sufficient as far as entry of cash credit in form of unsecured loans. The assessee has relied on the decision of Gujarat High Court in the case of (Copy Gopal Heritage (P.) Ltd. (2021) 133 taxmann.com 173, held as:

*“Where assessee had taken unsecured loans from some persons and Assessing Officer made addition under section 68 on ground that assessee had not been able to prove immediate source of cash-in-hands of party, since all ingredients contemplated under section 68 had been duly satisfied on aspect of identity of creditors, genuineness of transactions and their creditworthiness, said addition was to be deleted”*



12. We note that the appellant filed documents such as bank statements, ITRs and ledger accounts of the creditors. However, complete information/details to the satisfaction of the Assessing Officer were not provided. The Assessing Officer has considered the surrounding circumstances, financial profile of the creditors and the manner in which transaction occurred through the bank account. AO reached to the conclusion that transaction seemed to be lack of genuinity as there were cash deposits in accounts of the creditors immediately before the transfer of funds that the further observed that creditor 'Ashvin Jayshankar Trivedi', 'Jay Ashvin Trivedi' both has given of Rs. 8,00,000/- both the cash creditor while filing the return of income showing income of Rs.3,21,350/- and Rs. 3,60,010/- that Shree Ashvin Jayshankar Trivedi is a pensioner and getting pension of Rs. 13,343/- and Jay Ashvin Trivedi has shown the professional income, and third creditor Shremati Rajshree Ashvin Trivedi' who has given loan of Rs. 4,00,000/- filing the return of income for AY 2011-12, showing income of Rs. 86,850/- . The appellant not discharge the onus to the satisfaction of the AO that loan-creditors did not have sufficient amount in bank and it appears that the creditor accommodated the funds. It can be safely be presumed that the funds belonged to the appellant, and the appellant was the ultimate beneficiary of the transaction. Hon'ble ITAT, Ahmedabad in Poonjabhai Vanmali & Sons vs. ITO {1989} 33 TTJ (Ahd.) 91 has laid down that while the assessee is not required to prove as to how the depositor managed to bring the amount of deposit to him but if the Assessing Officer brings out such circumstances on record to fatally damage the capacity of the depositor to advance the disputed amount, then certainly AO may reject the explanation offered by the assessee on the ground of the same failing to come up to his satisfaction. In the instant case, the transactions in bank accounts of the creditors showing that funds were introduced in form of cash in all three accounts on the same date and were shortly thereafter transferred to the appellant,



ITRs and bank statements of the creditors not containing transactions of similar quantum and the three creditors being related persons amply demonstrate that there was high probability that appellant's own funds were being routed through the three creditors who appear to be mere name-lenders in the transaction. The case-laws filed by the appellant in his support have been duly considered. As such cases require factual verification of facts which are unique to each case, these case-laws cannot be applied in totality unless and until the facts are exactly similar. Appellant has failed to show facts of the case-laws so quoted by him are exactly similar to his case. Further, in recent years, in cases of accommodation of funds, higher Judiciary has increasingly been relying upon 'Doctrine of Fraud' to uphold addition of such transactions. The higher Courts are of the view that where the assessee concerned has not maintained transparency in his financial transactions and has tried to circumvent the provisions of Income-tax Act then his case becomes considerably weakened and he cannot take refuge under the 'Rules of Evidence' and 'Burden of Proof' to seek relief. In the context of fake transactions, Hon'ble ITAT, Pune vide a recent judgment in the case of Splice Biotech Pvt. Ltd. In ITA No. 775/PUN/2023 dated 27.09.2023 has applied the 'doctrine of fraud'. We would also like to place reliance on this case-law wherein it has been stated in no uncertain terms that such manipulations which abuse the provisions of the Income-tax Act cannot be allowed. The relevant portion of the judgment is quoted as under:

*"9. Further, the application of principle of the fraud under judicial Acts was considered by the Hon'ble Supreme Court in the case of Smt. Badami (Deceased) By her L.R. vs. Bhali in Civil Appeal No. 1723 of 2008 dated 22.05.2012, wherein, the Hon'ble Apex Court held as follows: "20. In S. P. Chengalvaraya Naidu (dead) by L.Rs. v. Jagannath (dead) by L.Rs. and others [AIR 1994 SC 853] this court commenced the verdict with the following words:- ""Fraud-avoids all judicial acts, ecclesiastical or temporal" observed Chief Justice Edward Coke of England about three centuries ago. It is the settled proposition of law that a judgment or decree obtained by playing fraud on the court is a nullity and non est in the eyes of law. Such a judgment/decree by the first court or by the highest court - has to be treated as a nullity by every court, whether superior or inferior. It can be challenged in any court even in collateral proceedings." 21. In the said case it was clearly stated that the courts of law are meant for imparting justice between the parties and*



*one who comes to the court, must come with clean hands. A person whose case is based on falsehood has no right to approach the Court. A litigant who approaches the court, is bound to produce all the documents executed by him which are relevant to the litigation. If a vital document is withheld in order to gain advantage on the other side he would be guilty of playing fraud on court as well as on the opposite party. 22. In Smt. Shristi Dhawan v. M/s. Shaw Brothers [AIR 1992 SC 1555] it has been opined that fraud and collusion vitiate even the most solemn proceedings in any civilised system of jurisprudence. It has been defined as an act of trickery or deceit. The aforesaid principle has been reiterated in Roshan Deen v. Preeti Lal [AIR 2002 SC 33], Ram Preeti Yadav v. U. P. Board of High School and Intermediate Education and other [(2003) 8 SC 311] and Ram Chandra Singh v. Savitri Devi and others [(2003) 8 SCC 319]. 23. In State of Andhra Pradesh and another v. T. Suryachandra Rao [AIR 2005 SC 3110] after referring to the earlier decision this court observed as follows:- "In Lazaurs Estate Ltd. v. Beasley [(1956) 1 QB 702] Lord Denning observed at pages 712 & 713, "No judgment of a Court, no order of a Minister can be allowed to stand if it has been obtained by fraud. Fraud unravels everything." In the same judgment Lord Parker LJ observed that fraud vitiates all transactions known to the law of however high a degree of solemnity. " 24. Yet in another decision Hamza Haji v. State of Kerala & Anr. [AIR 2006 SC 3028] it has been held that no court will allow itself to be used as an instrument of fraud and no court, by way of rule of evidence and procedure, can allow its eyes to be closed to the fact it is being used as an instrument of fraud. The basic principle is that a party who secures the judgment by taking recourse to fraud should not be enabled to enjoy the fruits thereof."*

*.....Therefore, the decision of the Hon'ble High cannot be termed as binding precedent. Equally, other decisions relied upon by the Id. Counsel have no application, inasmuch as, the 'doctrine of fraud' was not invoked by the respective High Courts or the Tribunals. The NFAC had failed to examine the nature of transaction, the NFAC had passed order in perfunctory manner. Therefore, we reverse the order passed by the NFAC and restore the assessment order."*

13. Considering the facts and circumstances of the case, we are of the view that the findings of the AO that assessee failed to discharge his onus to prove the credit-worthiness of the creditor/genuineness of the transaction, the finding of the AO was approved by the Ld.CIT(A). The Ld. AR of the assessee has drawn our attention that the assessee has complied with section 68 of the Act accordingly to Gujarat High Court judgment (above mentioned). We are of the view that the assessee deserve for an opportunity to explain the case before the AO, to produce/establish the genuinity of the transaction before the AO. Therefore, we set aside the order of the Ld.CIT(A), and remit the matter back to the file of the



AO, with the direction to the assessee to establish the genuinity of the transaction by producing more evidence to establish the genuinity of the transaction.

14. In the result, the appeal of the assessee is allowed, for statistical purposes.

**Order is pronounced in the open court on 11/03/2026.**

**Sd/-**  
**(Dr. Arjun Lal Saini)**  
**Accountant Member**

**Sd/-**  
**(Dr. Dinesh Mohan Sinha)**  
**Judicial Member**

Rajkot

दिनांक/ Date: 11/03/2026

**Copy of the Order forwarded to**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. DR/AR, ITAT, Rajkot
5. Guard File

By order

//True Copy//

Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot