

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

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

I.T.A. No. 417/SRT/2025
(Assessment Year: 2017-18)

Sumeru Textiles Pvt. Ltd., O/B/4, Tribhuvan Complex, Ghod Dod Road, Surat-395007 [PAN : AADCS 3422 Q]	Vs.	Dy. CIT, Circle 2(1)(2), Surat Current Jurisdiction, ITO, Ward 2(1)(3), Surat
(Appellant)	..	(Respondent)
Appellant represented by :	Shri Rasesh Shah, CA	
Respondent represented by:	Shri Ajay Uke, Sr DR	
Date of Hearing	23.01.2026	
Date of Pronouncement	26.03.2026	

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-

This appeal has been filed by the assessee against the order dated 11.03.2025 passed by the Ld. Commissioner of Income-tax, National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred to as the "Ld. CIT(A)"), under Section 250 of the Income-tax Act, 1961 (hereinafter referred to as the "Act") for Assessment Year 2017-18.

2. The assessee has raised following grounds of appeal:-

"1. On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in confirming the action of assessing officer in making the addition of Rs 80,00,000/- on account of alleged unexplained cash credits in bank account u/s. 68 of the Act.

2. On the facts and circumstances of the case as well as law on the subject the learned assessing officer has erred in taxing the addition by taking the rate @77.25% by attracting S. 115BBE instead of taxing as per normal tax slab

3. Even otherwise on the facts and circumstances of the case as well as law on the subject, the assessing officer has erred in taxing the income u/s 115BBE @ 77.25% in a retroactive manner by applying the duly substituted

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S 115BBE inserted retrospectively instead of taxing it at 35.54% as per the old provisions of S. 115BBE.

4. It is therefore prayed that the above addition made by the assessing officer and confirmed by Ld. CIT(A) may please be deleted."

3. The brief facts of the case are that the assessee-company is engaged in the business of building and construction and filed its return of income on 23.10.2017 declaring total income of Rs.12,65,560/-. The case was selected for scrutiny. During the assessment proceedings, it was noticed that the assessee had deposited cash amounting to Rs.80,00,000/- in its bank account during the demonetisation period. The Assessing Officer treated the cash deposits of Rs.80,00,000/- as unexplained cash credits u/s 68 of the Act and taxed the same u/s 115BBE of the Act. Assessment was thus completed u/s 143(3) of the Act determining total income at Rs.92,65,562/-.

4. Aggrieved, the assessee filed an appeal before the Ld. CIT(A) who dismissed the appeal of the assessee.

5. Aggrieved by the order of the Ld. CIT(A), the assessee is now in appeal before the Tribunal.

6. Before us, the learned AR reiterated the submissions made before the lower authorities. It was contended that the cash deposited in the bank was fully explained by earlier withdrawals from the bank, which were intended for investment in immovable property. Since the proposed investment did not materialise, the withdrawn cash remained on hand and was subsequently re-deposited during the demonetisation period. It was further submitted that the books of account were audited and not rejected u/s 145 of the Act, and therefore, the provisions of section 68 could not be invoked. The Ld. AR also contended that the amendment to section 115BBE could not be applied retrospectively.

7. The Ld. DR, on the other hand, supported the orders of the lower authorities and submitted that the assessee failed to establish the identity, creditworthiness, and genuineness of the transactions. It was argued that the explanation offered was unsupported by evidence, contrary to law, and against human probabilities.

8. We have carefully considered the rival submissions, perused the material available on record, and examined the factual matrix of the case. The undisputed facts emerging from the record are that the assessee took loans from its Director at frequent intervals, approximately every fifteen days. The amounts so received were withdrawn in cash on nine occasions. The cash was withdrawn over a period of about five months, retained for nearly five months, and thereafter re-deposited in the bank account during the demonetisation period. The sole explanation offered is that the withdrawals were for purchase of immovable property.

8.1 At the outset, we find that the explanation tendered by the assessee is completely bereft of any supporting documentary evidence. The assessee has failed to produce even a single document such as (a) agreement to sell or Memorandum of Understanding, (b) registered sale deed, (c) advance receipt, (d) proof of stamp duty or registration charges. Under sections 68 and 69A of the Act, the burden of proving the nature and source of money lies squarely upon the assessee. A mere oral or self-serving explanation, without corroborative evidence, cannot discharge this statutory burden. In CIT v. Durga Prasad More (82 ITR 540), the Hon'ble Supreme Court held that taxing authorities are entitled to look into surrounding circumstances and apply the test of human probabilities, and that apparent statements cannot be accepted as real when unsupported by evidence.

8.2 The explanation offered by the assessee does not stand the test of human probabilities and normal business conduct. No prudent person would withdraw borrowed funds in cash, keep such a huge amount idle for nearly five months; and thereafter re-deposit the identical cash into the banking channel. Such conduct is wholly unnatural and commercially imprudent. The Hon'ble Supreme Court in *Sumati Dayal v. CIT (214 ITR 801)* has categorically held that where the apparent story put forward by the assessee is against human probabilities, the same deserves to be rejected.

8.3 We also find considerable merit in the observation of the Assessing Officer that the plea of cash withdrawal for purchase of immovable property is legally untenable. Sections 269SS and 269ST of the Act impose statutory restrictions on acceptance and payment of large sums in cash. Transactions relating to immovable property are required to be carried out through banking channels such as cheque, RTGS, or NEFT. Payment of property consideration in cash beyond prescribed limits is expressly prohibited by law. An explanation premised on an act prohibited by law cannot be accepted. Law does not permit an assessee to derive benefit from an explanation rooted in illegality.

8.4 The pattern of transactions, i.e. repeated loans taken at short intervals, followed by multiple cash withdrawals and eventual re-deposit, clearly indicates that the explanation is an afterthought, devised to give a colourable justification to unexplained money. No lender confirmation was produced to establish that the loans were specifically taken for the purpose of property purchase. The manner and frequency of transactions negate the existence of any genuine or planned property transaction. If the cash had genuinely been withdrawn for the purpose of purchasing immovable property, the same would have been paid to the seller and not re-deposited into the bank account. The re-deposit of the entire amount conclusively proves that no property transaction ever took place. There is neither

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evidence of any agreement nor evidence of cancellation of any proposed transaction. The assessee's own conduct demolishes its explanation.

In view of the foregoing discussion, it is evident that:

8.5 The assessee's explanation is devoid of credibility, not supported by any documentary evidence, contrary to statutory provisions and against human probabilities. Accordingly, we hold that the assessee has failed to satisfactorily explain the nature and source of the cash deposits. The action of the Assessing Officer in treating the impugned amount of Rs.80,00,000/- as unexplained cash credit under section 68 of the Act is fully justified and is hereby upheld.

9. In the result, the appeal filed by the assessee is dismissed.

The order is pronounced in the open Court on 26.03.2026

Sd/-

**(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Ahmedabad; Dated 26/03/2026

btk

Sd/-

**(DR. B.R.R. KUMAR)
VICE-PRESIDENT**

आदेश की प्रतिलिपि □ ग्रेषित/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 ,/DR,ITAT, Surat,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

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सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण
ITAT, Surat