

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

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

I.T.A. No.379/SRT/2024
(Assessment Year: 2009-10)

Income Tax Officer, Ward-2 (3) (4), Surat.	Vs.	Sureshbhai Vashrambhai Khunt C-85, Matrushakti Society, Punagam, Surat-395010 [PAN : AYRPK0039 N]
(Appellant)	..	(Respondent)

And

I.T.A. Nos.658 & 659/SRT/2024
(Assessment Years: 2009-10 & 2010-11)

Sureshbhai Vashrambhai Khunt C-85, Matrushakti Society, Punagam, Surat-395010 [PAN : AYRPK0039 N]	Vs.	Income Tax Officer, Ward-2 (3) (4), Surat.
(Appellant)	..	(Respondent)

Appellant by :	Shri Mukesh Jain, CIT.DR
Respondent by:	Shri Rasesh Shah, AR
Date of Hearing	22.01.2026
Date of Pronouncement	15.04.2026

ORDER

PER SUCHITRA KAMBLE, JUDICIAL MEMBER:-

Delay Condoned

The captioned three appeals has been filed by the assessee and the Revenue against the separate order passed the National Faceless Appeal Centre (NFAC) vide order dated 09.02.2024 relevant to Assessment Years 2009-10 & 2010-11.

2. The Revenue has raised the following grounds of appeal:

1. On the facts and circumstances of the case and in law, the Ld.CIT(A) has erred in restricting the addition made by AO of Rs. 9,82,99,241/- to 8% of the same unaccounted income on account of section 69A of the Act as the assessee neither in the assessment proceedings nor in the appeal proceedings produced any cogent evidences to prove that the deposits made in the Bank account pertains to his business receipts ie from cheque discounting business.

2. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in restricting the addition from Rs. 9,82,99,241/ to 8% of the same when the assessee has totally failed to establish his business alongwith documentary evidences from which he has deposited such a huge amount in his bank accounts.

3. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in giving relief to the assessee by restricting the addition to the extent of 8% of the total addition made of Rs.9,82,99,241/- which is in contrary to his findings in his appellate order that the assessee has not submitted any legally valid documentary evidences or proofs in support of his claim.

4. On the basis of the facts and 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 kindly be set aside ar that of the Assessing Officer be restored.

3. The brief facts of the case are that the assessee is an individual. As per the information received from the Investigation Wing, it was noticed that the assessee was maintaining a bank account with IDBI Bank, Surat Branch since July 2009, which was subsequently closed. The said account was triggered due to large value of cheques being deposited followed by immediate cash withdrawals. From the date of opening of the account, large cash withdrawals of around Rs.2 crore were reported. During the Enhanced Due Diligence (EDD), the appellant informed that he was engaged in the business of cheque discounting; however, the same was not mentioned in the customer profile of the subject. Further, on verification of the Cash Transaction Report, additional bank accounts with substantial cash credits amounting to Rs.9,82,99,241/- were found during the financial year 2008-09. On perusal of the return of income filed for the year under consideration, the appellant had shown gross receipts of Rs.2,02,298/- and net profit of Rs.1,06,326/-. Thus, it was apparent that the aforesaid bank credits were not reflected in the return of income filed by the assessee. Accordingly, the case was reopened under section 147 of the Income Tax Act, 1961 and notice under section 148 was issued and served on 31.03.2016. After about four months from the issuance of notice under section 148, i.e., on 08.08.2016, the appellant submitted that the original return of income filed may be treated as the return filed in response to the notice under section 148. Since the return of income was not filed within the stipulated time after issuance of notice under section 148, the same was treated as non-est. However, in order to complete the assessment proceedings, notice under section 143(2) was

issued and served. Further notices under section 142(1) of the Income Tax Act, 1961 along with show cause notices were issued on different dates; however, the appellant remained non-responsive. Consequently, the Assessing Officer completed the assessment under section 144 read with section 147 of the Act by assessing the total income at Rs.9,84,02,590/-, thereby raising a tax demand of Rs.6,60,12,020/-.

4. Aggrieved by the order of the Assessing Officer, the assessee carried the matter in appeal before the Ld.CIT(A), who allowed the ground of appeal of the assessee by observing as follows:

"...Appellant has not submitted any legally valid documentary evidences or proofs support of his claims Appellant has merely stated that the addition made by AD is not correct and erred in law and on facts. Appellant also stated that AO cannot make addition on total credit in bank account and only the profit margin is taxable and not sales. AO has also failed to consider that total credit should not be taxed. As appellant has not filed his return of income in time in response to notice U/s 148 of the Income Tax Act 1961 and no books of accounts produced either during the assessment nor before the appeal proceedings, it is decided that 8 % of the total credits of Rs 9,82,99,241/- should be taxed..."

5. Heard the rival contention and perused the material available on records.

6. We have gone through the above facts and circumstances of the case, and considering the material available on record, we find that the Ld. CIT(A) has taken a reasonable view in restricting the addition to 8% of the total credits, treating the same as income of the assessee. The Revenue has failed to bring on record any cogent material to controvert the findings of the Ld. CIT(A) or to justify the addition made by the

Assessing Officer of the entire amount under section 69A of the Act. Accordingly, we do not find any infirmity in the order passed by the Ld. CIT(A). Therefore, the appeal filed by the Revenue is **dismissed**.

Coming to the ITA No.658/Srt/2024 for AY 2009-10

7. The assessee has raised the following grounds of appeals
1. *On the facts and circumstances of the case as well as law on the subject, Id. assessing officer has erred in re-opening assessment u/s 147 by issuing notice u/s 148 of the I.T. Act, 1961. The Id. CIT(A) has not given any finding on similar ground raised by assessee as ground no. 1.1 before him.*
 2. *On the facts and circumstances of the case as well as law on the subject, Id. assessing officer has erred in issuing/serving the notice u/s. 148 after 31.03.2016. The Id. CIT(A) has not given any finding on similar ground raised by assessee as ground no. 1.2 before him.*
 3. *On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in partly confirming the action of assessing officer in sustaining the addition at an estimated rate of 8% of total addition of Rs. 9,82,99,241/- u/s. 69A of the I.T. Act on account of alleged unaccounted income being cumulative credits in the bank account.*
 4. *It is therefore prayed that assessment framed u/s 144 r.w.s. 147 of the Act may kindly be quashed and/or addition made by assessing officer and confirmed by CIT (A) may please be deleted.*
 5. *Appellant craves leave to add, alter or delete any ground(s) either before or in course of hearing of the appeal.*
8. As regards to ground no.1 of assessee's appeal the reopening was properly invoked u/s.147 of the Act as per the records. Hence the legal ground does not sustain.

9. Since we have already upheld the order of the Ld. CIT(A) while dismissing the appeal of the Revenue on identical facts and issues, we do not find any reason to interfere with the order of the Ld. CIT(A) in the present appeal filed by the assessee. **Accordingly, the appeal filed by the assessee is dismissed as infructuous.**

Coming to the ITA No.689/Srt/2024 for AY 2010-11 (Appeal by the assessee)

10. The assessee has raised the following grounds of appeal:

1 On the facts and circumstances of the case as well as law on the subject the learned assessing officer has erred in re-opening assessment u/s 147 by issuing notice u/s 148 of the IT Act, 1961

2. 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 3,61,11,652/- u/s 69A of the IT Act on account of alleged unaccounted income being cumulative credits in the bank account.

3 it is therefore prayed that addition made by assessing officer and confirmed by CIT (A) may please be deleted

4. Appellant craves leave to add, alter or delete any ground(s) either before or in course of hearing of the appeal

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

12. We have heard the rival submissions and perused the material available on record. We find that the issue involved in the present appeal is similar to the issue considered by us in the case for A.Y. 2009-10, wherein the addition made by the Assessing Officer on account of

cumulative bank credits was restricted to **8% of the total credits**, treating the same as income of the assessee. Considering the similarity of facts and circumstances of the present case, we deem it appropriate to follow the same view. Accordingly, the addition made by the Assessing Officer and confirmed by the Ld. CIT(A) is **restricted to 8% of the total credits**, and the balance addition is directed to be deleted.

13. In the result, the appeal of the assessee for **A.Y. 2010-11 is partly allowed.**

14. In the combined result, the appeals filed by the Revenue and the assessee in **ITA No. 379/Srt/2024 and ITA No. 658/Srt/2024 for A.Y. 2009-10 are dismissed**, whereas the appeal filed by the assessee in **ITA No. 659/Srt/2024 for A.Y. 2010-11 is partly allowed.**

The order is pronounced in the open Court on 15.04.2026.

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

**Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

(True Copy)

Ahmedabad; Dated 15.04.2026
MV

आदेश की प्रतिलिपि अग्रेषित / 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, Surat
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

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