



IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT

**Before: DR. BRR Kumar, Vice President
And Ms. Suchitra Kamble, Judicial Member**

**ITA No: 1104/SRT/2025
Assessment Year: 2019-20**

Hitesh Bhikhubhai Desai 23 Diamond Nagar, Behind Patel Samaj Wadi Mini Bazar, Varachha Road, Surat-395006, Gujarat PAN: BMJPD7558L (Appellant)	Vs	The ITO Ward-3(3)(1), Surat (Respondent)
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**Assessee Represented: Shri Gautam Simedia, CA
Revenue Represented: Shri Ashish Kumar, Sr. D.R.**

Date of hearing : 23-01-2026
Date of pronouncement : 06-04-2026

आदेश/ORDER

PER : SUCHITRA KAMBLE, JUDICIAL MEMBER:-

This appeal is filed by the Assessee is against the order passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), on 26-08-2025 for Assessment Year 2019-20.

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

1. On facts and circumstances of case as well as law on subject, Ld. AO erred in reopening assessment when extraordinary condition of Reassessment is not satisfied.

- 2. On fact and circumstances of case as well as law on subject, Ld. CIT erred in upholding the order of AO in making addition of Rs. 21,82,940/- u/s 68 of Act.*
 - 3. On fact and circumstances of case as well as law on subject, Ld. CIT erred in upholding the order of AO in making addition of Rs.21,829/- u/s 69C of Act.*
 - 4. On fact and circumstances of case as well as law on subject, Ld. AO erred in invoking S. 115BBE on addition so made.*
 - 5. It is therefore prayed that addition may please be deleted or assessment be quashed.*
 - 6. The Appellant carves leave to add, alter, amend or delete any grounds of appeal.*
3. Brief facts of the case is that the assessee is an individual and filed Return of Income on 17-09-2019. The case of the assessee was reopened. As per the information/enquiry, it was revealed that M/s. Classic Industries were providing bogus bills of purchases and sale to various entities. In fact, Partner in the Firm – Shri Gulam Salim Godi, has also provided bogus entries and the assessee is one such beneficiary who has made sale to agency controlled and managed by Shri Gulam Salim Godi. As per information received, the assessee had sale goods amounting to Rs.21,82,940/- to M/s. Blue Moon Textiles, firm controlled and managed by Shri Gulam Salim Godi.

3.1. In response to notice u/s. 148, the assessee filed Income Tax Return for Asst. year 2018-19 declaring total income of Rs.3,26,430/-. The assessee provided ledgers, details of item sold and details of payment through banking channel. The Assessing Officer observed that the assessee could not establish anything with respect of transport of items sold and could not establish physical delivery of items, There was no signature of recipient in the sales invoices. Therefore the transaction reflects that it is a paper transaction. The assessing officer held that that the said entities were this was not bogus sales bills and therefore the assessing

officer disallowed sale value of Rs.21,82,940/- as unexplained credit u/s. 68 and also added expenses/commission to make such arrangements of bogus purchase bill at 1% of Rs. 21,82,940/- amounting to Rs.21,829/- treated as unexplained expenditure u/s. 69C r.w.s. 115BBE of the Act.

4. Being aggrieved by the penalty order, the assessee filed appeal before Ld. CIT(A). The Ld. CIT(A) dismissed the appeal of the assessee.

5. The Ld. A.R. submitted that the Ld. CIT(A) was not right in making addition of Rs.21,82,940/- u/s 68 of the Act and Rs.21,829/- u/s. 69C of the Act. The Ld. A.r. submitted that the assessee has given all the details related to the purchase as well as sale of the goods and merely assuming the bills to be bogus cannot tantamount to unexplained credit and unexplained expenditure thereby. The assessee has given all the details of sale bills, purchase bills relevant invoices and the bank entries from the bank statements at the assessment proceedings. The Ld. A.R. submitted that the addition u/s. 68 is not applicable in the case covered u/s. 44AD as the return filed u/s. 44AD does not required maintenance of books of account as mandate and income declared is deemed to have covered all expenses. The bank statement cannot be treated as books of account and once no books of account were maintained section 68 will not be invoked. As regards addition u/s. 69C is purely presumptive and unsustainable as there was no material was found to show that there was actual payment of commission. There was no doubt created related to identity of recipient and mode of payment. Therefore the Ld. A.R. submitted that the Assessing Officer as well as Ld. CIT(A) was not right in confirming the addition.

6. The Ld. D.R. relied upon the assessment order in the order of the Ld. CIT(A).

7. We have heard both the parties and perused the relevant materials available on record. It is pertinent to note that as regards addition u/s. 68 of the Act, the assessee has originally filed return of income u/s. 44AD of the Act. Subsequently after issuance of notice u/s. 148, the assessee has filed the return in response to section 148 and categorically mentioned the purchase and sale details from various parties. Merely assuming that these purchases were bogus cannot establish the revenue's case as the assessee through its record has mentioned the details related to the purchase of the goods and the sale. In fact the bill/invoices has categorically mentioned the details of the purchases and sale. Thus the finding given by the Assessing Officer related to purchase and doubting the same is not justifiable. Ground No. 2 is allowed.

8. As regards to Ground No. 3 addition u/s. 69C is purely of presumptive basis and in fact there was the purchase and sale at the relevant time and all the documents categorically mentioned that there was no payment of commission at any stage of the transaction. Hence Ground No. 3 is allowed.

9. In respect of Ground No. 1, the same is general in nature. Ground No. 4 is consequential, hence is not adjudicate at this juncture.

10. In the result, the appeal of the Assessee is allowed.

Order pronounced in the open court on 06-04-2026
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Sd/-
(DR. BRR KUMAR)
VICE PRESIDENT *True Copy*
Ahmedabad : Dated 06/04/2026

Sd/-
(SUCHITRA KAMBLE)
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,
सूरत