

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

**BEFORE SHRI PAWAN SINGH, JM & DR. A.L.SAINI, AM**

आयकरअपीलसं./ITA No.98/SRT/2017

(निर्धारणवर्ष / Assessment Year: (2008-09)

(Virtual Court Hearing)

Manishkumar Dinkerbhai Patel Dungar Falia, At & Post Dungri, Valsad-396375	Vs.	Income Tax Officer, Ward-5, Valsad
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ARHPP 2626 F		
(Appellant )		(Respondent)

Assessee by : Shri Hardik Vora, A.R

Respondent by : Shri Vinod Kumar, Sr-DR

सुनवाई की तारीख/ Date of Hearing : 13/07/2022

घोषणा की तारीख/Date of Pronouncement : 25/07/2022

**आदेश / ORDER**

**PER DR. A. L. SAINI, ACCOUNTANT MEMBER:**

Captioned appeal filed by the assessee, pertaining to assessment year 2008-09, is directed against the order passed by the Learned Commissioner of Income Tax (Appeals)-Valsad, [for short 'Ld.CIT(A)'] dated 18.07.2017, which in turn arises out of an order passed by the Assessing Officer u/s 143(3) r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'), dated 29.03.2016.

2.At the outset Learned Counsel for the assessee begins by pointing out that Assessing Officer made the addition of Rs.8,50,000/-, being the said sum received from Shri Ramabhai Patel, which the Assessing Officer had treated as unexplained cash credit and made the addition u/s 68 of the Act. The said sum of Rs. 8,50,000/- is a part of total addition of Rs.65,28,400/- (vide assessment order page no.11). In this regard, Ld. Counsel states that assessee has approached to Shri Ramabhai Patel, who is residing in USA and has received the income tax return filed by him (Shri Ramabhai Patel- USA).

The Id Counsel further states that assessee has been trying hard to get this evidence since a long and recently he is able to get this additional evidence. Since this is an additional evidence pertaining to the addition of Rs.8,50,000/-, therefore it should be admitted as per Rule 29 of the ITAT Rules and the matter may be remitted back to the file of Assessing Officer for *de novo* adjudication.

3. On the other hand, Ld. Sr.DR for the Revenue opposed the plea taken by Id Counsel and stated that assessee has not explained the reasons that why he was not able to collect this additional evidence during assessment proceedings. If the assessee failed to collect the additional evidence at the assessment stage, then why he did not file this additional evidence during the first appellate proceedings? The Id DR further argued that assessee has furnished this additional evidence for the first time before the Tribunal, which should not be admitted.

4. We have heard both the parties and perused the material available on record. We note that Ld. counsel for the assessee explained that the return of income filed by Shri Ramabhai Patel was not available when the assessment proceedings was going on and it was also not available during the appellate proceedings. The assessee has been trying hard since long to get such additional evidence and ultimately he recently got it. Hence, assessee was able to get this additional evidence recently and therefore, the same is submitted before the Tribunal at the time of hearing. Considering this factual position and in the interest of justice and fair play, we admit this additional evidence filed by assessee and remit this additional evidence back to the file of Assessing Officer with a direction to examine the same and adjudicate the issue in accordance with law. For statistical purposes, the appeal of assessee is treated as allowed.

5. In the result, the appeal of the assessee is allowed for statistical purposes as indicated above.

Order is pronounced on 25/07/2022 by placing the result on the Notice Board.

**Sd/-**  
**(PAWAN SINGH)**  
**JUDICIAL MEMBER**

सूत /Surat दिनांक/ Date: 25/07/2022

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**Copy of the Order forwarded to**

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

// True Copy //

**Sd/-**  
**(Dr. A.L. SAINI)**  
**ACCOUNTANT MEMBER**

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Surat