

**आयकर अपीलीय अधिकरण, सुरत न्यायपीठ, सुरत**  
IN THE INCOME TAX APPELLATE TRIBUNAL, “SMC” BENCH, SURAT  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER

**आ.अ.सं./ITA No.422/SRT/2023** (AY 2015-16)

(Hearing in Physical Court)

P.M. Patel (HUF) 2-A-1, Gudluck Gems Building, Opp. Prannath Hospital, Ved Road, Surat- 395006 <b>PAN No: AAJHP 0673 B</b>	Vs	Deputy Commissioner of Income-tax, Circle-3(2), Aaykar Bhavan, Majura Gate, Surat-395001
<b>अपीलार्थी/</b> Appellant		<b>प्रत्यर्थी /</b> Respondent

निर्धारिती की ओर से /Assessee by	Shri P.M. Jagasheth, CA
राजस्व की ओर से /Revenue by	Shri Vinod Kumar, Sr-DR
अपील पंजीकरण/Appeal instituted on	21.06.2023
सुनवाई की तारीख/Date of hearing	17.08.2023
उद्घोषणा की तारीख/Date of pronouncement	17.08.2023

**Order under section 254(1) of Income Tax Act**

**PER PAWAN SINGH, JUDICIAL MEMBER:**

1. This appeal by assessee is directed against the order of National Faceless Appeal Centre, Delhi [for short to as “Ld. NFAC/Ld.CIT(A)”] dated 12.06.2023 for assessment year 2015-16, which in turn arises from the assessment order made by the Assessing Officer under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as ‘the Act’) dated 15.12.2017. The assessee has raised the following ground of appeal:-

*“1.On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income Tax(Appeals) has erred in confirming the action of Assessing Officer in making addition of Rs.40,19,786/- on account of agriculture income treated as alleged income from other sources from undisclosed source without any base.*

*2. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income Tax(Appeals) has erred in*

*confirming the action of the Assessing Officer in estimating and restricting agriculture income of Rs.10,14,067/- without any cogent evidence.*

*3. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income Tax(Appeals) has not offered adequate opportunities to hear the case and passed non-speaking order and hence the case may please be set aside and restored back to the CIT(A) or AO.*

*4. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income Tax (Appeals) has erred in confirming the action of Assessing Officer in initiating penalty proceedings u/s 271(1)(c) of the Income Tax Act, 1961.*

*5. It is therefore prayed that above addition may please be deleted as learned members of the Tribunal may deem it proper.*

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

2. Rival submissions of Ld. Authorized Representative (Ld.AR) for the assessee and Ld. Senior Departmental Representative (Ld. Sr-DR) for the Revenue heard and record perused. At the outset of hearing, Ld. AR for the assessee submits that Ld. CIT(A) passed impugned order in *ex parte* proceedings without giving fair and reasonable opportunities of being heard to assessee. The Ld. AR for the assessee submits that assessee filed appeal on 17.01.2018 as per order of NFAC/Ld. CIT(A), notice of hearing was issued for the first time in January, 2021 and thereafter in March, 2022 and finally in June, 2023. The Ld. AR for the assessee submits that the assessee was not served the notice issued by NFAC/Ld. CIT(A) therefore, prevented by sufficient cause. The Ld. AR for the assessee submits that NFAC/Ld. CIT(A) dismissed appeal in *limine* without discussing the facts of the case and the impugned order is not in accordance with law mandate 250(6) of the Act. The Ld. AR for the assessee submits that assessee

has a good case on merit and likely to succeed, if assessee is given one more opportunity to contest the grounds of appeal / additions on merits. The Ld. AR for the assessee submits that matter may be restored to the file of NFAC/Ld. CIT(A) so that assessee may file proper response to various additions.

3. On the other hand, Ld. Sr-DR for the Revenue supported the order of lower authorities and submits that assessee was given sufficient and reasonable opportunities either before Assessing Officer or before NFAC/Ld. CIT(A) and assessee does not deserve any leniency for restoration of appeal before Assessing Officer or NFAC/Ld. CIT(A).
4. I have heard the submission of Ld. Authorized Representative (Ld. AR) for the assessee and Ld. Senior Departmental Representative (Ld. Sr-DR) for the Revenue and have gone through the order of lower authorities carefully. Considering the fact that valuable right of assessee are involved in the present appeal and NFAC/lid CIT(A) passed *ex parte* order. The order of ld CIT(A) is not in accordance with the mandate of section 250(6) of the Act. Section 250(6) mandates that the order of ld CIT(A), must contains the statement of facts, points for determination, decision thereon and reasons of such decision. Therefore, in my view, the assessee deserves one more opportunity to contest his case on merit. Therefore, all the grounds of appeal raised by assessee are restored back to the file of Assessing Officer to decide all the issues afresh in accordance with law. Needless to direct the Assessing Officer shall grant opportunity of hearing to the assessee. The assessee is also directed to be more

vigilant and to make compliance in time and not to seek adjournment without any reason and to file all relevant documents and evidence before Assessing Officer as and when called for. In the result, grounds of appeal raised by assessee are allowed for statistical purposes.

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

Order pronounced in open court at the close of the hearing on  
Thursday, 17<sup>th</sup> August, 2023.

Sd/-  
**(PAWAN SINGH)**  
**[न्यायिक सदस्य JUDICIAL MEMBER]**

सूरत/Surat, Dated: 17/08/2023

*Dkp. Out Sourcing Sr.P.S*

Copy to:

1. Appellant-
2. Respondent-
3. CIT(A)-
4. CIT
5. DR
6. Guard File

By order

// True Copy //

Senior Private Secretary/ Private  
Secretary/Assistant Registrar, ITAT, Surat