

**आयकर अपीलीय अधिकरण, सुरत न्यायपीठ, सुरत**  
IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND  
Dr ARJUN LAL SAINI, ACCOUNTANT MEMBER

**आ.अ.सं./ITA No.517/SRT/2023** (AY 2015-16)

(Hearing in Physical Court)

Liladhar Nanjibhai Hingrajya A/806, Abhishk Estate, Vyara Old Power House, Tapi -394650 <b>PAN : AAXPH 0738 F</b>	Vs	Income Tax Officer, Ward-2, Bardoli-394650
<b>अपीलार्थी</b> /Appellant		<b>प्रत्यर्थी</b> /Respondent

निर्धारिती की ओर से /Assessee by	P.M. Jagasheth, CA
राजस्व की ओर से /Revenue by	Shri Vinod Kumar, Sr-DR
अपील पंजीकरण/Appeal instituted on	27.07.2023
सुनवाई की तारीख/Date of hearing	29.12.2023
उद्घोषणा की तारीख/Date of pronouncement	29.12.2023

**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 'NFAC/Ld. PCIT'] dated 28.06.2023 for assessment year 2015-16, which in turn arises out of assessment order passed by Assessing Officer passed assessment order under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') dated 14.08.2017. The assessee has raised the following grounds of appeal:-

*"1.On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of the Income Tax (Appeals) has erred in confirming the action of the Assessing Officer in making addition of Rs.43,09,584/- on account of alleged unexplained investment in property.*

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

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

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

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

2. Rival submission of Ld. Authorized Representative (Ld.AR) for the assessee and Ld. Senior Departmental Representative (Ld. Sr-DR) for the Revenue heard and record perused. The Ld.AR of the assessee submits that Assessing Officer as well as NFAC/Ld.CIT(A) made the addition for the want of proper reply and explanation and passed ex-party order. The Assessing Officer made addition on account of unexplained investment in property. The NFAC/Ld.CIT(A) confirmed the action of Assessing Officer in *ex parte* order. The Ld.AR of the assessee submits that NFAC/Ld.CIT(A) sent the notice on the different e-mail, though assessee has given e-mail to his counsel for the purpose of service of notice of appeal. Since no such notice was served on the e-mail provided in Form-35 (appeal form), therefore, no proper compliance could be made. The Ld. AR of the assessee submits that assessee has good case on merit and is likely to succeed if one more opportunity is granted to explain source of

investment. The ld. AR of the assessee prayed that both the lower authorities passed order for want of evidence, therefore issued raised in the present appeal may be restored back to the file of Assessing Officer.

3. On the other hand, Ld. Senior Departmental Representative (Ld. Sr-DR) for the Revenue submits that the assessee was given sufficient and reasonable opportunities, yet, the assessee has not availed such opportunity. Therefore, assessee does not deserve any leniency at this stage.
4. We have considered the submissions of both the parties and perused the materials available on record. We find that the Assessing Officer while passing the assessment order made addition on account of unexplained investment on purchase of property. The Assessing Office made addition by taking view that assessee was given various opportunities, yet, the assessee has not furnished complete details. The NFAC/Ld.CIT(A) also confirmed the addition in *ex parte* order. We find that the assessee while filing appeal before first appellate stage provided the email address of his AR for the purpose of service of notice, however, the notice through ITBA portal was sent at the earlier email address of assessee. Considering the fact that notice issued by NFAC/Ld.CIT(A) is not served through e-mail provided by assessee inform-35 (Appeal Form) before NFAC/Ld.CIT(A) and considering the fact and substantial right of assessee are involved in the present appeal, therefore keeping in view the principle of natural

justice, we find it appropriate to grant one more opportunity to assessee with a direction file all evidence / documents before Assessing Officer as and when called for. Therefore, the grounds of appeal raised by assessee is restored back to the file of Assessing Officer. Needless to say to direct Assessing Officer shall pass order after giving fair and reasonable opportunity to assessee. The assessee is also directed to be more vigilant in future in making compliance in time and not to seek further adjournment without any valid reason. With these directions the appeal of assessee is allowed for statistical purposes in above terms.

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

Order pronounced in the open court on 29/12/2023.

Sd/- <b>(Dr ARJUN LAL SAINI)</b> [लेखा सदस्य/ACCOUNTANT MEMBR]	Sd/- <b>(PAWAN SINGH)</b> [न्यायिक सदस्य JUDICIAL MEMBER]
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Surat, Dated: 29/12/2022

*Dkp. Out Sourcing Sr.P.S*

Copy to:

1. Appellant-
2. Respondent-
3. PCIT
4. DR
5. Guard File

By order

// True Copy //

Sr.P.S./Assistant Registrar, ITAT, Surat