

**IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

**आयकर अपील सं./ITA No.311/SRT/2024**

**Assessment Year: (2014-15)**

**(Hybrid Hearing)**

Falguni Pranav Vasani, 801, Splendor County, Sunshine Villas, Kalewadi Main Road, Rahatni Pimpri Chinchwad – 411027, Maharashtra	<b>Vs.</b>	The ITO, Ward – 2, Vapi
<b>स्थायी लेखासं./जीआइआरसं./PAN/GIR No.: AHPPV3458D</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Appellant by</b>	Shri Hitesh Sanjanwala, CA
<b>Respondent by</b>	Shri Vinod Kumar, Sr. DR
<b>Date of Hearing</b>	29/08/2024
<b>Date of Pronouncement</b>	29/08/2024

**आदेश / ORDER**

**PER BIJAYANANDA PRUSETH, AM:**

This appeal emanates from the order dated 30.01.2024 passed by the learned Addl./JCIT(A)-2, Delhi for the assessment year (AY) 2014-15.

2. The grounds of appeal raised by the assessee are as follows:

*“The Ld. CIT(A)-NFAC erred on facts and in law in confirming addition of Rs.16,50,000/- without appreciating the grounds of appeal and statement of facts submitted in Appeal and also without making any independent judgment or opinion relating to the subject matter of the original assessment order. The order u/s 250 has been passed on technical grounds without going into the merits of the case. Further no notices were sent on the residential address of the appellant as submitted in the appeal.”*

3. The facts of the case in brief are that the assessee had not filed her return of income for the AY.2014-15 as per the provisions of section 139(1) of the Act. The assessee’s case was reopened on the basis of information

available with the department that the assessee was a non-filer and had purchased immovable property during the year under consideration. Notice u/s 148 of the Act was issued on 28.03.2019. In response to notice u/s 148 of the Act, assessee had also not filed his return of income. Thereafter, notice u/s 142(1) of the Act was issued on 13.10.2019 and 24.10.2019. The assessee was asked to furnish some specific details and explain the source of purchase of property. However, the assessee did not comply with any of the notices. Therefore, the AO completed the 'best judgement assessment' u/s 144 of the Act. Despite three notices, the assessee failed to furnish any reply before the AO. Further, the assessee was specifically asked to explain the source of investment made in property with supporting documentary evidence but the assessee failed to do so. In spite of affording sufficient opportunities, the assessee could not produce any evidence to prove the source of investment. Therefore, the AO made the addition of Rs.16,50,000/-, treated as unexplained investment and added the same to the total income of the assessee. Penalty proceedings u/s 271(1)(c), 271(1)(b) and 271F of the Act were also initiated.

4. Aggrieved by the order of AO, the assessee filed appeal before the Ld. CIT(A). The Ld. CIT(A) issued 3 notices but assessee did not respond to the notices. Thereafter, Ld. CIT(A) observed that assessee was not vigilant and she proceeded to dismiss the appeal without discussing anything on merit of the case. It is clearly an order in violation of mandate u/s 250(6) of the Act.

5. Aggrieved by the order of Ld. CIT(A), the assessee filed appeal before this Tribunal. Learned Authorized Representative (Ld. AR) of the assessee assailed the impugned order by contending that assessee could not represent his case before Ld. CIT(A) and the order being an *ex parte* order, stood vitiated on account of violation of principles of natural justice. The Ld. AR submits that during the appellate proceedings, the assessee could not appear before the Ld. CIT(A) due to circumstances beyond its control. Adequate opportunity of hearing was not given to the assessee, therefore, Ld. AR contended that one more opportunity should be given to the assessee to plead his case before the Ld. CIT(A).

6. On the other hand, Learned Senior Departmental Representative (Ld. Sr. DR) for the Revenue submitted that assessee was negligent during the appellate proceedings; hence, appeal of the assessee should be dismissed.

7. We have heard both the parties. It is an undisputed fact that the assessee did not respond to the notices issued to him by the Ld. CIT(A) on 04.01.2024, 17.01.2024 and 25.01.2024. Therefore, the Ld. CIT(A) has upheld the order of the Assessing Officer and dismissed the appeal by observing that the assessee was totally non-compliant. The Ld. AR submitted that the assessee could not appear before CIT(A) due to circumstances beyond his control. The Ld. AR requested for one more opportunity in the interest of justice and fair play. We find that assessee could not plead his case properly before the Ld. CIT(A). We also note that Ld. CIT(A) has passed the *ex parte* order due to non-compliance by the assessee before him. The order does not

at all discuss on merits of the case. We are of the view that one more opportunity should be given to the assessee to plead his case. It is settled law that principles of natural justice and fair play require that the affected party is granted sufficient opportunity of being heard to contest his case. Therefore, without delving deeper into the merits of the case, in the interests of justice, we set aside the order of Ld. CIT(A) and restore the matter back to the file of Assessing Officer for fresh adjudication and to pass a speaking order after affording sufficient opportunity of being heard to the assessee. The assessee is also directed to furnish explanation and submit the relevant details and documents before the Assessing Officer expeditiously without taking adjournment bereft of valid reason. For statistical purposes, the appeal of the assessee is treated as allowed.

8. In the result, appeal filed by the assessee is allowed for statistical purpose.

Order is pronounced on 29/08/2024 in the open court.

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

**Sd/-**  
**(BIJAYANANDA PRUSETH)**  
**ACCOUNTANT MEMBER**

Surat

दिनांक/ Date: 29/08/2024

SAMANTA

**Copy of the Order forwarded to**

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

**// TRUE COPY //**

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Surat