

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ SMC, अहमदाबाद ।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
" SMC " BENCH, AHMEDABAD

BEFORE DR. BRR KUMAR, VICE PRESIDENT  
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

आयकर अपील सं./ITA No.439/Ahd/2024  
निर्धारण वर्ष /Assessment Year : 2012-13

Pankajkumar N. Patel A-204, Green Leaves, Science City Road Sola, Ahmedabad - 380 060 (Gujarat)	<u>बनाम/</u> <u>v/s.</u>	The ITO Ward-1 Ahmedabad - 384 265
स्थायी लेखा सं./PAN: ABZPP 0368 C		
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
Assessee by :	Shri Parin S. Shah, AR	
Revenue by :	Shri C. Dharani Nath, Sr.DR	

सुनवाई की तारीख/Date of Hearing : 18/11/2024  
घोषणा की तारीख /Date of Pronouncement: 22/11/2024

आदेश/ORDER

PER DR. BRR KUMAR, VICE PRESIDENT

This is an appeal filed by the assessee against the order of the Ld.Commissioner of Income Tax (Appeals) [CITA] , National Faceless Appeal Centre, Delhi in proceeding u/s.250 of the Income Tax Act, 1961 vide order dated 11/01/2024 passed for the Assessment Year (AY) 2012-13.

2. The grounds of appeal taken by the assessee are as under:-

1. *The order passed by lower authorities is bad in law and required to be quashed.*

*2 Ld. NFAC erred in law and on facts reopening in of assessment u/s 148 of the Act ignoring fact that there is no escapement of income and case has been reopened for making fishing and roving inquiries.*

*3 Ld. NFAC erred in law and on facts in confirming addition of unexplained investment of Rs.702667/- u/s69A of the Act.*

*4, Ld. NFAC erred in law and on facts in confirming addition of Rs. 1808774/- as unexplained investment u/s 69A ignoring fact that section does not have applicability.*

*5. Initiation of penalty proceedings 271(1)(c) of the Act. u/s*

*6. Charging of Interest u/s 234A,234B,234C are unjustified.*

3. The brief facts of the case are that the assessee has filed his return of income for the year under consideration by declaring total income of Rs.2,46,200/-. The Assessing Officer (AO) passed an order u/s.147 r.w.s. 144 of the Income Tax Act, 1961 ("the Act") ongoing to non-compliance of the notice issued to the assessee. The addition has been made on account of bank loan on proprietor's capital account on an agricultural income.

4. We have heard both the parties and perused the material available on record. Before us, the Ld.Counsel for the assessee submitted that due confirmations could not be filed owing to reasons beyond assessee's control and ill-health of family members of the assessee. The assessee pleaded that given an opportunity, due to compliance would be made before the AO, where the primary default has occurred. Thus, keeping in view, we hold that no prejudice is caused to the Revenue if an opportunity is given to the assessee to make his submissions before the AO. Hence, the matter is remanded to the AO to consider the submissions made by the assessee.

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

**Order pronounced in the Court on 22<sup>nd</sup> November, 2024 at Ahmedabad.**

**Sd/-  
(SUCHITRA KAMBLE)  
JUDICIALMEMBER**

**Sd/-  
( DR. BRR KUMAR )  
VICE PRESIDENT**

*टी. सी. नायर, व. नि. स. / T.C. NAIR, Sr. PS*

आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :

1. ँ पीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (ं पील) / The CIT(A)-(NFAC), Delhi
5. विभागीय प्रतिनिधिआयकर ँ पीलीय ँ धिकरण /DR, ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार (Asstt. Registrar)  
आयकर ँ पीलीय ँ धिकरण, ITAT, Ahmedabad