

आयकर अपीलीय अधिकरण, सूरत न्यायपीठ, सूरत
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.1041/SRT/2024** (AY 2015-16)
(Physical court hearing)

Sachi Desai B/3501, Rustomjee Elanza Near Inorbit Mall Malad West, Maharashtrat-400 064 [PAN : AICPV 7841 A]	बनाम Vs	Assistant Commissioner of Income- tax, Valsad Circle, Valsad, AAykar Vibhag, Shanti Nagar,Valsad-396 001
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से /Assessee by	Shri Rasesh Shah, CA
राजस्व की ओर से /Revenue by	Shri Mukesh Jain– Sr-DR
सुनवाई की तारीख/Date of hearing	07.01.2025
उद्घोषणा की तारीख/Date of pronouncement	10.01.2025

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/Commissioner of Income tax (Appeals) [for short to as "NFAC/Ld.CIT(A)] dated 09.08.2024 for assessment year (AY) 2015-16, which in turn arises out of assessment order passed by Assessing Officer under section 143(3) r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') 29.11.2019.
2. Rival submissions of both parties heard and record perused. The Ld. Authorized Representative (Ld.AR) of the assessee submits that Assessing Officer treated the gift received from HUF, as income from "other sources" by taking view that assessee is not included in the definition of "relative". The

assessee has received such gift from HUF, wherein the assessee is one of the member. The Assessing Officer relied upon the decision of ITAT Ahmedabad Benches in the case of Gyanchand M. Bardiya vs. ITO (2018) 93 taxmann.com 144 (Ahd-Tribunal). On appeal before Ld.CIT(A) the action of Assessing Officer was upheld in *ex parte* proceedings. The Ld. AR of the assessee submits that there is other decision subsequent to decision of Ahmedabad Tribunal, including the decision of Chandigarh Tribunal in case of Pankil Garg Vs.PCIT (2019) taxmann.com 108 taxmann.com 337 (Chand-Trib) and earlier decision of Rajkot Tribunal in Vineet Kumar Raghavjibhai Bhalodia Vs ITO (2011) taxmann.com 384 (Rajkot). The decisions of Chandigarh Tribunal also considered section 10(2) of the Act. However, such fact is not considered by Ld. CIT(A) as could not be brought to his notice. The Ld.AR of the assessee prayed that matter may be restored back to the file of Ld.CIT(A) for adjudication of issue afresh in accordance with law. The Ld. AR of the assessee submits that assessee could not make proper compliance before Ld.CIT(A) as assessee has given her mobile number and e-mail address while filing appeal before Ld. CIT(A) in Form-35 and she was not well verse with electronic mode. The Ld. AR of assessee submits that one more opportunity may be given to assessee to contest her case on merit before Ld.CIT(A).

3. On the other hand, Ld. Sr-DR for the Revenue supported the order of lower authorities. Ld.Sr-DR for the Revenue submits that assessee was given ample opportunities by Ld.CIT(A) as recorded in para-3 of the impugned order,

however, assessee failed to respond such notices. The Ld. Sr-DR submits that assessee does not deserve any further opportunity.

4. We have considered the rival submissions of both the parties and have gone through order of lower authorities carefully. We find that there is no dispute about the fact that assessee has received gift from HUF *wherein* she is a member of such HUF. The Assessing Office treated the gift as "income from other sources" by taking view that assessee does not fall in the category of "relative" define in clause-(ii) of Section 56(2)(vii). We find that Ld.CIT(A) confirmed the action of Assessing Officer in ex parte proceedings. Before us, Ld. AR of the assessee vehemently argued that there is subsequent decision of Chandigarh Tribunal in favour of assess and assessee maybe given one more opportunity to contest the case before Ld.CIT(A). Considering the fact that Ld. CIT(A) has passed ex parte order by taking view that assessee has not made compliance despite service of notices on the e-mail provided in form-35 while filing appeal. Considering the overall facts and circumstances of the present case, we deem it proper to allow one more opportunity to assessee to contest her case before Ld.CIT(A) again. Thus, the order of Ld. CIT(A) is set aside and is restored to the file of Ld.CIT(A) to pass order afresh in accordance with law after consideration decision of Chandigarh Tribunal in Pankil Garg Vs PCIT (2019) taxmann.com 108 taxmann.com 337 (Chand-Trib). Needless to direct the Ld.CIT(A) shall grant opportunity of being heard to assessee. The assessee is also directed to provide all evidences and information again to the Ld.CIT(A)

as and when required. In the result, grounds of appeal raised by assessee are treated allowed for statistical purposes.

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

Order pronounced in the open court on 10/01/2025.

Sd/-
(BIJAYANANDA PRUSETH)
लेखा सदस्य/Accountant Member

Sd/-
(PAWAN SINGH)
न्यायिक सदस्य/Judicial Member

सूरत / Surat Dated: 10/01/2025

Dkp Outsourcing Sr.P.S*

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, सूरत/ DR, ITAT, SURAT
- गार्ड फाईल/ Guard File

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By order/आदेश से,

सहायक पंजीकार
आयकर अपीलीय आधिकरण, सूरत