

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

ITA No. 1117/Srt/2024 (Assessment Year 2019-20)

(Physical hearing)

Renuka Harshil Patel, 35, Keshav Park Society, Ved Road, Opp. Pandol Ind. Estate, Surat, Gujarat-395004. PAN No. CWOPS 3958 M	Vs.	I.T.O., Ward 3(2)(1), Surat.
Appellant/ Assessee		Respondent/ Revenue

Assessee represented by	Shri Rasesh Shah, C.A..
Department represented by	Shri Mukesh Jain, Sr.DR
Appeal instituted on	29/10/2024
Date of hearing	16/01/2025
Date of pronouncement	16/01/2025

Order under Section 254(1) of Income Tax Act

PER: PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by the assessee is directed against the order of National Faceless Appeal Centre, Delhi (NFAC)/learned Commissioner of Income Tax (Appeals) [in short, the Id. CIT(A)] dated 02/09/2024 for the Assessment Year (AY) 2019-20.

The assessee has raised following grounds of appeal:

- “1. On the facts and circumstances of the case as well as law on the subject, the Id. CIT(A) has erred in passing ex parte order without giving reasonable and sufficient opportunity of being heard.
2. On the facts and circumstances of the case as well as law on the subject, the Id. CIT(A) has erred in dismissing the appeal without passing speaking order.
3. On the facts and circumstances of the case as well as law on the subject, the Id. A.O. has erred in reopening the case of the assessee u/s 147 of the Act by issuing notice u/s 148 of the Act.
4. On the facts and circumstances of the case as well as law on the subject, the Id. A.O. has erred in making addition of Rs. 54,70,500/- u/s 69A as alleged unexplained money.
5. It is therefore prayed that assessment framed u/s 147 of the Act may kindly be quashed and/or addition made by assessing officer may please be deleted.

6. *Appellant craves leave to add, alter or delete any ground(s) either before or in course of hearing of the appeal."*
2. Rival submissions of both the parties have been heard and record perused. The learned Authorised Representative (Id. AR) of the assessee submits that the Id. CIT(A) dismissed the appeal of assessee in an *ex parte* order. In fact, notice of appeal was not served on the assessee. The assessee has given e-mail address on Form-35 as janani4239@gmail.com, however, the notice of hearing of appeal was sent on another e-mail address viz yas.n.associates@gmail.com. Though, the order was served on assessee through e-mail mentioned on Form-35. The assessee immediately filed the present appeal well within time. The Id. AR of the assessee submits that the assessee has good case on merit and will suffer prejudice, if the case is not adjudicated on merit. The Id. AR of the assessee submits that the assessee may be allowed at least one opportunity to explain the facts of case before the Id. CIT(A)
 3. On the other hand, the Id. Sr. DR for the revenue submits that the assessee is a habitual defaulter even they have not made any compliance before the Assessing Officer. The Assessing Officer also made addition for want of proper submission. The assessee does not deserve any further leniency.
 4. We have considered the submissions of both the parties and perused the record carefully. We find that the assessee while filing appeal before the Id. CIT(A), has given e-mail address viz; janani4239@gmail.com, however, the Id. CIT(A)/NFAC issued notice at different e-mail address i.e. yas.n.associates@gmail.com. In absence of proper service of notice the assessee remained unrepresented. No fair and reasonable opportunity was given to the assessee before passing the order by Id. CIT(A). Though, we find that the Id. CIT(A) has not passed the order

as per mandate of Section 250(6) of the Income Tax Act, 1961. Thus, considering the facts and circumstances of the case that substantial right of assessee are involved in the present appeal, therefore, grounds of appeal raised by assessee are restored back to the file of Id. CIT(A) to adjudicate all the grounds of appeal afresh. Needless to direct that before passing the order on merit, the Id. CIT(A) shall grant reasonable opportunity of hearing to the assessee. The assessee is also directed to be more vigilant in future and in making proper compliance and not to make any default in responding the notices issued by the Id. CIT(A). With this direction, the grounds of appeal raised by the assessee are allowed for statistical purposes.

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

Order announced in open court on 16th January, 2025.

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat, Dated: 16/01/2025

**Ranjan*

Copy to:

1. Assessee
2. Revenue
3. CIT
4. DR
5. Guard File

By order

Sr. Private Secretary, ITAT, Surat