

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

**आयकर अपील सं./ITA No.785/SRT/2024**

**Assessment Year: (2015-16)**

**(Hybrid Hearing)**

K. Patel International, Residential Plot No.64, New Colony, Valia Road, GIDC, Ankleshwar – 393002	<b>Vs.</b>	The ACIT, Circle – 2, Bharuch
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AACFK7262Q</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Appellant by</b>	Shri Suresh Modiani, CA
<b>Respondent by</b>	Shri Mukesh Jain, Sr. DR
<b>Date of Hearing</b>	04/12/2024
<b>Date of Pronouncement</b>	22/01/2025

**आदेश / ORDER**

**PER BIJAYANANDA PRUSETH, AM:**

This appeal filed by assessee emanates from the order passed by the learned Commissioner of Income Tax (Appeals), [in short “the Ld. CIT(A)”], National Faceless Appeal Centre (in short ‘NFAC’), Delhi, dated 11.07.2024, for the Assessment Year (AY) 2015-16.

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

*“1. The learned Commissioner (Appeals) erred in confirming disallowance of expenditure on commission to the extent of Rs.4,94,800/-. Your Appellant submits that the disallowance is made without considering written submissions filed a number of times and prays that the disallowance be deleted.*

*2. The learned Commissioner (Appeals) erred in confirming addition of Rs.65,25,569/- by presuming concealed export sales to that extent. Your Appellant submits that the disallowance is made without considering written*

*submissions filed a number of times and prays that the disallowance be deleted.*

*3. The learned Commissioner (Appeals) erred in confirming addition of Rs.9,34,534/- by presuming concealed domestic sales to that extent. Your Appellant submits that the disallowance is made without considering written submissions filed a number of times and prays that the disallowance be deleted.*

*4. The learned Commissioner (Appeals) erred in confirming disallowance of Rs.2,70,655/- out of travelling expenses. Your appellant submits that the disallowance is made without considering written submissions filed a number of times and prays that the disallowance be deleted.*

*5. The learned Commissioner (Appeals) erred in confirming addition of Rs.56,052/- on account of amount of export incentives as per data obtained by him from CBEC in excess of amount as per profit and loss account. Your appellant submits that the disallowance is made without considering written submissions filed a number of times and prays that the disallowance be deleted.*

*6. The learned Commissioner (Appeals) erred in confirming disallowance of Rs.47,646/- being Employees Contribution to PF paid late. Your Appellant submits that the disallowance is made without considering written submissions filed a number of times and prays that the disallowance be deleted.*

*7. The learned Commissioner (Appeals) erred in confirming disallowance of Rs.59,420/- out of expenditure and depreciation on vehicles. Your appellant submits that the disallowance is made without considering written submissions filed a number of times and prays that the disallowance be deleted.”*

3. The learned Authorized Representative (Id. AR) of the assessee did not press ground Nos.6 and 7 of grounds of appeal; therefore, we dismiss these grounds as not pressed.

4. Brief facts of the case in brief are that assessee had filed its return of income on 13.08.2015 for AY.2015-16, declaring total income of Rs.74,32,490/-. The case of the assessee was selected for limited scrutiny under CASS, which was subsequently converted to complete scrutiny after

obtaining approval of the PCIT, Vadodara-3. The Assessing Officer (in short, 'AO') made seven additions, totaling to Rs.83,88,676/-. The major additions pertain to (i) Rs.9,34,534/-, being difference between the local sales as per submission of assessee and the audit report, (ii) difference of export sales of Rs.65,25,569/- between submission of the assessee and audit report, (iii) Rs.4,94,800/-, being 10% of commission expenses paid to Shri Bipin Jatakia and (iv) foreign travelling expenses of Rs.2,70,655/-.

5. Aggrieved by the order of AO, the assessee filed appeal before CIT(A). the CIT(A) has dismissed all grounds of appeal and confirmed the order of AO. It is seen that the CIT(A) has confirmed the addition by repeating findings of the AO.

6. Aggrieved by the order of CIT(A), the assessee filed appeal before the Tribunal. The Id. AR has filed paper book, containing 71 pages which includes written submission before the Tribunal, CIT(A) and AO, audit report, invoices for sales return, agreement with Mr. Jatakia, details of travelling expenses and duty drawback and order of ITAT for AY.2011-12. The Id. AR submitted that the CIT(A) decided the appeal without issuing notice u/s 250 of the Act and without considering the submissions and evidences filed in response to notices issued u/s 250 of the Act by the predecessors of the CIT(A). The Id. AR requested to set aside the matter to CIT(A) with direction to deal with evidences and submissions filed earlier.

7. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR) for the revenue supported the order of lower authorities. He submitted that Shri Bipin Jatakia was paid commission of Rs.49,48,004/-, though he was working as Vice President. But he was paid commission as an agent. The assessee failed to furnish details of sale through Shri Jatakia.

8. We have heard both the parties and perused the materials available on record. We have also gone through the details filed by the assessee in the paper book. We find that the CIT(A) has not issued any notice u/s 250 of the Act before passing the order. We also find that the assessee had filed written submission to the CIT(A), which is at pages 14 to 27 of the paper book. Various details were also filed, which are at pages 28 to 69 of the paper book. These submission and details were not considered by the CIT(A) while making the order u/s 250 of the Act. Since the order was passed by ignoring the submission and details filed by the assessee, the Id. AR requested for one more opportunity before CIT(A) in the interest of justice. We also note that CIT(A) has passed the order by simply repeating the findings of the AO. We are, therefore, of the view that one more opportunity should be given to the assessee to plead his case before the CIT(A). 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 much deeper into the merits of the case, we restore the matter to the file of CIT(A) for *de novo* adjudication and pass a speaking order after

considering submissions and details already made by the assessee to CIT(A) and after affording sufficient opportunity of being heard to the assessee. For statistical purposes, the appeal of the assessee is treated as allowed.

9. In the result, appeal filed by assessee is allowed for statistical purposes.

Order is pronounced on 22/01/2025 in the open court.

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

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

lwjr /Surat

दिनांक/ Date: 22/01/2025

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