



IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, AM.

&

DINESH MOHAN SINHA, JM

आयकरअपीलसं./ITA No. 606/RJT/2024

(निर्धारणवर्ष / Assessment Year: (2018-19)

(Hybrid Hearing)

Punjabhai Alabhai Madam, 75/1, Vadi Area Bharatpur, Bhanavad, Nr. Hanuman Mandir, Devbhumi, Dwarka – 360510	Vs.	ITO, Ward 1, Dwarka – 360510, Jamnagar
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: DFJPM4987R		
(Appellant)		(Respondent)

Appellant by : Shri Chetan Agarwal, Ld. AR
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR
Date of Hearing : 27/01/2025
Date of Pronouncement : 29/01/2025

आदेश / ORDER

PER DINESH MOHAN SINHA, JM:

Captioned appeal filed by the assessee is directed against the order passed by the National Faceless Appeal Centre [(in short “NFAC/Ld. CIT(A)”] vide order dated 28.06.2024, which in turn assessment order passed by Assessment Unit, Income Tax Department / Assessing Officer under section 154 of the Income Tax Act, 1961 (in short “the Act”).

2. Grounds of appeal raised by the assessee are as followed:

1) The Ld. CIT(A) erred in law as well as on facts in confirming penalty of Rs. 65,246/- imposed by the Ld. AO u/s. 271B of the Act.



3. Facts of the case that the appellant individual is engaged in business of sale of Milk and related products and return of income u/s. 139(1) was not filed. The case was reopened u/s. 147 of the Income Tax Act, 1961 from the information available in “Verification Module” of Insight Portal under case type: High Risk CRIU/VRU cases, it is seen that the assessee has carried out a transaction of Rs. 71,02,000/- during the F.Y. 2017-18, relevant to the A.Y. 2018-19. Appellant has shifted his residence during the assessment proceedings. Ld. AO has also called upon bank statement u/s. 133(6) from banks for verification and two bank account, find that return of income was not filed then AO has remain stock details gathered and go ahead for making an addition of entire transaction in bank account instead verifying and finding reason being transaction in bank account. That an appeal filed before the Ld. CIT(A) which was dismissed by Ld. CIT(A) order dated 28.06.2024.

Being aggrieved by the order of the Ld. CIT(A), assessee challenged the legality and validity of order by filing an appeal before us.

4. During the course of hearing, the Ld. AR of the assessee submitted that the Ld. AO has made an ex – parte order with an addition of Rs. 71,02,000/-. Ld. Counsel of the assessee prayed that one more opportunity to be given to represent the case before lower authority.

5. Ld. Sr. DR relied on the order of the Ld. CIT(A) stating that due opportunities were given to the assessee. However, Ld. Sr. DR has not objected to the prayer of the assessee.

6. We have heard both the parties and perused the material available on record. We note that the Ld. CIT(A) has given five opportunities to the assessee to reply/submit documents but the assessee failed to submit the response. We note that the order of the Ld. CIT(A) talked about the issue of notice and do not talk about the service of notice upon the assessee. We further noted that the Ld. AO



has passed an ex-parte order u/s. 144 & 147 of the Act. we further noted that the assessee was not aware about the tax proceedings. We are of the view that an opportunity should be given to the assessee to present his case before the Ld. AO. We set aside the order of Ld. CIT(A) and remit the matter back to the file of Ld. AO for fresh adjudication on merit after giving due opportunity to the assessee of being heard and the assessee is also directed to file the return of income and submit the documents in support of his case, as and when called for.

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

Order pronounced in the open court on 29/01/2025

Sd/-

(Dr. A.L. SAINI)
ACCOUNTANT MEMBER

Rajkot

दिनांक/ Date:29/01/2025

Sd/-

(DINESH MOHAN SINHA)
JUDICIAL MEMBER

Copy of the Order forwarded to

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

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot