



**IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT  
BEFORE DR. ARJUN LAL SAINI, AM.**

**&**

**DINESH MOHAN SINHA, JM**

**आयकर अपील सं./ITA No. 906 & 907 /RJT/ 2024**

**(निर्धारण वर्ष / Assessment Year: (2021-22))**

**(Hybrid Hearing)**

Prashant Arvindbhai Lolariya C/o. K. P. Parekh & Co. Office No. 113-114, J.P. Towers, Tagor Road, Nr. Bhakti Nagar Station plot Rajkot – 360002	<b>Vs.</b>	The ITO, Ward 2(1)(1), Aayakar Bhawan, Race Course Ring Road, Rajkot - 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AAMPL3851E</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by

: Shri Viraj Kapuria, Ld. AR

Respondent by

: Shri Abhimanyu Singh Yadav, Ld. Sr. DR

सुनवाई की तारीख/ **Date of Hearing**

: **28 / 01 /2025**

घोषणा की तारीख/**Date of Pronouncement**

: **04 / 02 /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 26.12.2022, which in turn assessment order passed by Assessment Unit, Income Tax Department / Assessing Officer under section 143(3) of the Income Tax Act, 1961 (in short “the Act”).

And

2. 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 29.11.2024, which in turn penalty order passed by Assessment Unit, Income Tax Department / Assessing Officer under section 143(3) of the Income Tax Act, 1961 (in short “the Act”), vide order dated 28.06.2022.

3. The grounds of appeal are raised by the assessee.

*1. The assessment order under section 143(3) r.w.s. 1448 of the Income Tax Act, 1961 is bad on facts as well as in law.*

*2. The Ld. A.O. erred on facts as well as in law in making assessment in violation of the principal of natural justice, therefore the impugned order is bad on facts as well as in law and thereby non-est.*

*3 The Ld. A.O erred on facts as well as in law in assessing total income of Rs.2,26,91,046/- against returned income of Rs 9,72,550/-.*

*4. The Ld. A.O has erred on facts as well as in law by holding genuine purchases of the appellant without making independent inquiry.*

*5. The Ld. A.O. has erred on facts as well as in law by holding genuine purchases of the appellant as unverified and thereby making an addition of Rs. 2,17,18,496/- for profit @ 12.5% as embedded in such purchases.*

*6. The Ld. A.O. has erred on facts as well as in law by making an addition for profit @ 12.5% as embedded in unverified purchases, invoking provisions of sec. 69C of the Act.*

*7. The Ld. A.O. has erred on facts as well as in law by charging tax as per sec 115BBE of the Act in respect of the addition made for profit embedded in unverified purchases.*

*8. The learned A.O. erred in charging interest u/s 234A, 234B and 234C of the I.T. Act.*

*9. The Ld. A. O erred in initiating penalty proceedings 271AAC and 272A(1)(d) of the Act.*

*Your Honor’s appellant craves leave to add, amend, alter or withdraw any one or more grounds of appeal till the final hearing of appeal.*

4. Brief facts of the case are that, the assessee filed both the appeals with the assessment and penalty to pertains for A.Y. 2021-22 and decided by separate orders passed by Ld. CIT(A) which in turn arise out of separate orders that the assessment order and penalty order under the Income Tax Act.



5. The appellant filed its return of income on 04.02.2022 declaring income of Rs. 9,72,550/- for the A.Y. 2021-22. Subsequently, the case was selected for complete scrutiny. The Ld. AO completed proceeding u/s. 143(3) r.w.s. 144B of I. T. Act, 1961 by making addition of Rs. 2,17,18,496/- u/s. 69C r.w.s. 115BBE of the Income Tax Act, 1961 on account of estimated profit @ 12.5% on bogus transactions of Rs. 17,37,47,975/-. That the assessee filed an appeal against the assessment order before the Ld. CIT(A), and the appeal of Ld. CIT was dismissed by order dated 29.11.2024.

6. The assessee filed an appeal before us, against the impugned order passed by the Ld. CIT(A) dated 29.11.2024.

7. That the assessment order and the penalty order both are ex-parte order and Ld. Counsel of the assessee prayed that one more opportunity to represent the case before lower authority may kindly be granted to the assessee.

8. 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.

9. We have heard both the parties and perused material available on record. The Ld. CIT(A) has issued notice for hearing of the case. the assessee did not comply with the notice. We note that the assessee has not gave due care and attention to the case. That the assessee was directed to deposit a cost of Rs. 5,000/- to the department with DLSA (District Legal Service Authority) and deposit receipts is also to be submitted with the Registrar of the Tribunal. That the cost was levied on account of non-responsible attitude of the assessee. in interest of justice, we are of the view that one more opportunity should be given to the assessee to present his case before lower authority and remand the matter back to the file of the Ld. AO for fresh adjudication on merits. After giving due



opportunity to the assessee and the assessee is further directed to file the return of income for AY 2021-22 and submit all the required documents in support of the income earned during the year.

In the result, these appeals of the assessee are allowed for statistical purposes.

**Order pronounced in the open court on 04 - 02 -2025**

**Sd/-**  
**(A. L. SAINI)**  
**ACCOUNTANT MEMBER**

Rajkot

दिनांक/ Date: 04 / 02 /2025

**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

**Sd/-**  
**(DINESH MOHAN SINHA)**  
**JUDICIAL MEMBER**

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot