

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH

**BEFORE: DR. BRR KUMAR, VICE PRESIDENT
And SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

**ITA No.1795/Ahd/2024
Assessment Year 2016-17**

Prakashkumar Kantiji Makwana, (Legal Heir and son of Late Kantiji Ambaram Makwana) C/o Maulik Kansara & Co. Chartered Accountants, 42, Kanha Apartment, Opp. Audit Bhavan, Navrangpura, Ahmedabad-380009. PAN: AXYPM1864F (Appellant)	Vs	The Income Tax Officer, Ward-3(3)(2), Ahmedabad. (Respondent)
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**Assessee Represented: Shri Maulik Kansara, A.R.
Revenue Represented: Smt. Mamta Singh, Sr.D.R.**

Date of hearing : 24.02.2025
Date of pronouncement : 24.02.2025

आदेश/ORDER

PER : DR. BRR KUMAR, VICE PRESIDENT:

This appeal is filed by the Assessee as against the appellate order dated 28.08.2024 passed by the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre, Delhi, relating to the Assessment Year 2016-17.

2. The assessee has raised the following grounds of appeal:

1. *Whether, on the facts and in circumstances of the case and in law, Ld.CIT(A) is erred in confirming the addition made by the A.O for an amount of Rs.33,60,776/- and treated the same as income under the head of capital gain ?*
2. *Whether, on the facts and in circumstances of the case and in law, Ld.CIT(A) is erred in confirming the addition made by the Ld.AO without giving an adequate opportunity of being heard and by not observing the principle of natural justice?*

3. On going through the record, we find that the notices u/s.250 were issued on 24.04.2024, 27.06.2024, 11.07.2024, 25.07.2024 & 08.08.2024 requesting the assessee to submit certain details/clarification/ explanation. However, in pursuance to the same the assessee failed to submit any reply and the appeal of the assessee was dismissed by the Ld.CIT(A). Before us the Ld. Counsel for the assessee submitted that, given an opportunity, all the details/clarification/explanation would be provided to the revenue authorities. We also find that the assessee has not even complied before the Assessing Officer. Having gone through the fact, we hold that the no prejudice will be caused to the revenue if the Assessing Officer is allowed to examine the details/explanation submitted by the assessee. Hence, the matter is remanded to the Assessing Officer after examine the details/submission and take decision as per the provision of the Act. The assessee shall comply with the notices issued by the authorities without seeking unnecessary adjournments.

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

Order pronounced in the open court on 24.02.2025

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

Sd/-
(DR.BRR KUMAR)
VICE PRESIDENT

Ahmedabad : Dated **(True Copy)**
24.02.2025

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद