

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.618/SRT/2024

Assessment Year: (2017-18)

(Physical hearing)

Ankit Agarwal, Plot No. 10, Mahalaxmi Nagar, Opposite Bhavna Cinema, Pandesara, Surat-394221 (Gujarat) <b>PAN No. BAQPA 6184G</b>	Vs.	I.T.O., Ward 2(3)(1), Surat.
Appellant/ Assessee		Respondent/ Revenue

Assessee represented by	Sh. Sapnesh Sheth CA
Department represented by	Shri Mukesh Jain, Sr. DR
Date of hearing	19/02/2025
Date of pronouncement	03/03/2025

**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 the National Faceless Appeal Centre, Delhi (NFAC)/learned Commissioner of Income Tax (Appeals), [in short, the Id. CIT(A)] dated 28.03.2024 for the Assessment Year (AY) 2017-18. The Id CIT(A) confirmed the action of Assessing Officer (AO) in making addition aggregating of Rs.88.05 lacs on account of cash deposit during demonetization as well as other period of relevant financial year.
2. Rival submissions of both the parties have been heard and record perused. The learned Authorised Representative (Id. AR) of the assessee submits that during the hearing before Id CIT(A), the assessee sought adjournment on

two occasions as recorded in para 5 of impugned order. The date of hearing was fixed in quick succession. The appeal of the assessee was pending since 2020; however, three successive notices were issued in January & February 2024 only. The assessee could not seek adjournment on last date of hearing. One more opportunity may be allowed to the assessee. The assessee is really interested in perusing his appeal on merit. The Assessing Officer (AO) also passed ex-parte assessment order. The Id CIT(A) also passed ex-party order without discussing merits of the case. The Id. AR of the assessee submits that the AO also passed assessment order for the want of submissions. The assessee has a good case on merit and is likely to succeed if one more opportunity is allowed to the assessee to contest the case on merit. The Id. AR of the assessee submits that he undertakes on behalf of assessee to be more vigilant in future in complying the notices issued by the lower authorities and would file his submissions of first date of hearing by either of the lower authority. He prayed to restore the matter back to the file of AO.

3. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR), for the revenue submits that the assessee is habitual defaulter in making compliance. In case the Bench is of the view that the assessee deserves any relief, the matter may be restored back to the file of CIT(A) only with the direction to file appropriate reply and evidence to substantiate various issues.
4. We have considered the submissions of both the parties and have perused the orders of the lower authorities carefully. We find that while passing assessment order, the AO made addition of Rs. 59.36 lacs on account of cash

deposits during demonetization and further addition of Rs. 28.59 lacs on account of other deposits during the relevant financial year. The AO in para-3 of his order recorded that during assessment the assessee filed copy of bank statement on ITBA portal and sought further time for filing other details. The AO also noted that the assessee was engaged in the business of cloth trading as well as IRCTC agent. The AO further noted that assessee was specifically asked to furnish complete details, but he failed to furnish such details. Hence, the AO added entire cash deposits under section 68 and taxed the same under section 115BBE. Before, Id CIT(A), the assessee again sought adjournment on two occasions, which was allowed. However, on third occasion, the assessee neither filed his submissions nor sought adjournment. The Id CIT(A) took his view that the assessee is not interested in pursuing his appeal. On careful consideration of facts and the submissions of Id AR of the assessee, we are of the view that the assessee is interested in pursuing his appeal on merit. Thus, the order passed by Id CIT(A) is set aside. Further, considering the facts that substantial rights of the assessee are involved in the present case and both the lower authorities have passed order ex-parte and / or for the want of compliance, therefore, the matter is restored back to the file of AO to pass assessment order afresh and in accordance with law. Needless to direct that before passing the order, the AO shall grant fair and reasonable opportunity of hearing to the assessee. The assessee is also directed to be more vigilant in future and not to cause further delay and seek adjournment without any valid reason and to furnish all the details and his

submissions and evidences on various grounds of appeal raised, as soon as possible. In the result, the grounds of appeals raised by the assessee are allowed for statistical purposes.

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

Order announced in open court on 03 March, 2025.

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

Surat, Dated: 03/03/2025

*\*self / by author*

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

Copy to:

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

By order

Sr. Private Secretary, ITAT, Surat