

**IN THE INCOME TAX APPELLATE TRIBUNAL  
SURAT BENCH, SURAT**

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER &  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

I.T.A. No. 341/SRT/2024  
(Assessment Year: 2015-16)

Paneshwar Dudh Utpadak Sahakari Mandli Ltd., 1, Paneshwar Dudh Mandli, At: Paneshwar, Taluka: Magraol, Surat-394410	Vs.	Income Tax Officer, Ward-1, Bardoli
[PAN No. AAATP5128J]		
(Appellant)	..	(Respondent)

<b>Appellant by :</b>	Ms. Ankita Shah, A.R.
<b>Respondent by:</b>	Shri Mukesh Jain, Sr. DR

<b>Date of Hearing</b>	27.02.2025
<b>Date of Pronouncement</b>	07.03.2025

**ORDER**

**PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:**

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax(Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Centre (in short “NFAC”), Delhi vide order dated 06.02.2024 passed for A.Y. 2015-16.

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

“1. The Ld. CIT(A) has erred in law and on facts in confirming the action of the Ld. AO in making an addition of Rs. 22,74,588/- on account of low GP margin.

2. The Ld. CIT(A) has erred in law and on facts in confirming the action of the Ld. AO in making an addition of Rs. 29,08,682/- on account of Disallowance of 25% of Current Liabilities.

3. *The Ld. CIT(A) has erred in law and on facts in confirming the action of the Ld. AO in making an addition of Rs. 2,92,259/- as On account of Income from Interest and dividend under the Chapter head "Income from Other sources".*

4. *The Learned Assessing Officer has erred, in law and on facts, of rejecting Books of Accounts u/s. 145 of the Income-tax Act, 1961 when Books of Accounts duly audited, completely maintained and written and without pointing out any major discrepancies in Books of Accounts and that is also without issuing Show cause Notice and showing proper reason or justification for rejecting the Books of Accounts only ground of lower G.P. in compare to succeeding previous year.*

5. *The Learned Assessing Officer has erred in law and on facts, in not allowing deduction u/s. 80-P of the Income-tax Act, 1961 which is legally and lawfully allowed to assessee*

6. *Both the lower authorities have passed the orders without properly appreciating the facts and they further erred in grossly ignoring various submissions, explanations and information submitted by the appellant from time to time which ought to have been considered before passing the impugned order. AR of the assessee had requested under Rule 46 A of the Income-tax Act, 1961 to Ld. CIT(A) when physical hearing was there. Ld. CIT(A) had remanded the matter with Ward - 1, Bardoli and Assessee had submitted all the relevant documents along with Books of Accounts and Audit Report with Assessing Officer though without taking Remand report from Assessing Officer Ld. CIT(A) has passed the Order u/s. 144 of the Income-tax Act, 1961 which is cruel on assessee as he had submitted all the details, documents and information along with Audit Report with Assessing Officer. This action of the lower authorities is in clear breach of law and Principles of Natural Justice and therefore deserves to be quashed.*

7. *The learned CIT(A) has erred in law and on facts of the case in confirming action of the Ld. AO in initiating penalty u/s. 271(1)(c) of the Act.*

8. *The appellant craves leave to add, amend, alter, edit, delete, modify or change all or any of the grounds of appeal at the time of or before the hearing of the appeal."*

3. The brief facts of the case are that during the course of assessment, the assessee made addition of Rs. 22,74,588/- on account of low GP rate and also made certain disallowances amounting to Rs. 29,08,682/-.

4. In appeal, Ld. CIT(A) dismissed the appeal of the assessee on account of non-appearance, since the assessee, despite having being granted several opportunities of hearing, did not cause appearance.

5. The assessee is in appeal before us against the aforesaid order passed by Ld. CIT(A).

6. On going through the records of the case, we observe that during the course of assessment, the Assessing Officer issued notice on 28.03.2016, 23.09.2016, 28.06.2017, 24.08.2017 and 03.10.2017. However, despite issuance of above notices, none appeared before the Assessing Officer and he proceeded to pass ex-parte order under Section 144 of the Act, on the basis of information available on record. Further, even before Ld. CIT(A) we observe that he issued as many as seven notices dated 06.05.2019, 29.12.2020, 17.05.2023, 05.07.2023, 11.07.2023, 13.11.2023 and 19.01.2024, all of which remained uncomplished with. Therefore, from the records available before us, clearly the assessee has maintained a non-compliance and an evasive attitude in response to several notices of hearing issued by the Tax Authorities. However, at the request of the Counsel for the assessee, in the interest of justice, the assessee is hereby given one more opportunity and the matter is restored to the file of Assessing Officer for de-novo consideration. However, we make it clear that in case there is further non-compliance on part of the assessee in response to notices issued by the Assessing Officer, then the Assessing Officer shall proceed to pass appropriate orders in accordance with law, on the basis of materials available on record.

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

**Order pronounced under proviso to Rule 34 of ITAT Rules, 1963 on 07/03/2025**

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

Ahmedabad; Dated 07/03/2025

TANMAY, Sr. PS

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, सूरत / DR, ITAT, Surat
6. गार्ड फाईल / Guard file.

// True Copy //

**Sd/-**  
**(SIDDHARTHA NAUTIYAL)**  
**JUDICIAL MEMBER**

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकर अपीलीय अधिकरण, सूरत/ ITAT, Surat