

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

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

I.T.A. No. 738/SRT/2024  
(Assessment Year: 2017-18)

Kuldeep Rajendra Singh, 406, E-10 Green City, Pal Bhata, LP Savani Road, Bhatha, Gujarat-394510	Vs.	Income Tax Officer, Ward-1(3)(7), Surat
[PAN No.BCCPS6435A]		
(Appellant)	..	(Respondent)

<b>Appellant by :</b>	Shri Rasesh Shah, C.A.
<b>Respondent by:</b>	Shri Mukesh Jain, Sr. DR

<b>Date of Hearing</b>	24.03.2025
<b>Date of Pronouncement</b>	25.03.2025

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 13.06.2024 passed for A.Y. 2017-18.

2. The brief facts of the case are that the assessee is the proprietor of M/s. Karsan Enterprise, which is engaged in the distribution of petrol / diesel. During the course of scrutiny assessment, the Assessing Officer issued notices under Section 142(1) of the Act proposing certain additions to the returned income. However, the assessee did not respond to the notices issued by the Assessing Officer. As a result, the Assessing Officer estimated net profit of the assessee @ 1% of the turnover of Rs.

61,82,13,252/- i.e. at Rs. 61,82,132/-. Accordingly, an addition of Rs. 54,11,698/- was made to the returned income of the assessee, by rejecting the books of accounts of the assessee and an ex-parte order was passed under Section 144 of the Act.

3. In appeal, Ld. CIT(A) dismissed the appeal of the assessee by holding that though certain details had been filed by the assessee, but such details are not verifiable since no documentary evidences were filed by the assessee to substantiate the claims filed by the assessee. Accordingly, Ld. CIT(A) dismissed the appeal of the assessee with the following observations:

*“3.1. During the appellate proceedings in response to notice issued u/s 250 of the Act, the appellant has submitted its written submissions dated 21.01.24 and 24.05.24 which are being considered for adjudicating the appeal. The appellant has furnished agreement with Shell India Market Pvt. Ltd as proof of running a petrol pump. It has submitted a Month-wise Annexure for Quantitative details. However, the same is not verifiable as no supporting documentary evidences are filed to substantiate the claims and figures. I have carefully perused the facts of the case, submissions on record and the assessment order. The instant case was selected for complete scrutiny under CASS. The assessment was completed/s 144 of the Act, on exparte basis as there was no compliance by the appellant during the assessment proceedings. The appellant runs a petrol pump and declared turnover of Rs. 61.82 crores for the F.Y 2016-17. Book results were rejected by the AO considering absence of quantitative details in the audit report and the business income was estimated by the AO @1 % of the sales in the absence of any response from the appellant. During the appellate proceedings, the appellant has not furnished any corroborative evidence to negate the observation made by the AO as regards the declaration of cash deposits during the demonetization period. No bank statements are submitted nor any confirmation/ledger account of Shell Ltd filed to justify the business income. The authenticity of the monthwise quantitative statement is not verifiable at this stage without relevant additional evidences. No application is made under Rule 46A. In this view, the action of the AO is upheld and the addition of Rs.54,11,698/- confirmed.*

*3.4. In the result, the appeal is treated as dismissed.”*

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

5. Before us, the Counsel for the assessee submitted that though the assessee had filed certain details before CIT(A), but inadvertently these details were filed by the assessee in another penalty matter, which was pending adjudication before the same Ld. CIT(A). Accordingly, due to inadvertent error on the part of the assessee, the details which were available by the assessee, could not be appreciated / considered by Ld. CIT(A), while passing the order, and the additions were confirmed. Further, the Counsel for the assessee also pointed out that during the assessment proceedings, the Assessing Officer had given very short dates of hearing and since the assessee was an uneducated person, running a small business, he did not get adequate time to consult his Advocate / Chartered Accountant and accordingly, could not file appropriate details before the Assessing Officer.

6. In response Ld. D.R. placed reliance on the observations made by the Assessing Officer and Ld. CIT(A), in their respective orders.

7. On going through the facts of the instant case, we observe from Page 2 of the Assessment Order that the Assessing Officer had issued four notices of hearing, in which a very small time of a few days was given to the assessee to file response to the notices issued by the Assessing Officer. The details of notices issued by the Ld. Assessing Officer is reproduced below for ready reference:

<i>Date</i>	<i>Notice u/s.</i>	<i>Date of hearing/reply</i>	<i>Reply received on</i>
<i>19/10/2019</i>	<i>142(1) of the Act with questionnaire</i>	<i>25/10/2019</i>	<i>Non compliance</i>
<i>18/11/2019</i>	<i>142(1) of the Act with questionnaire</i>	<i>22/11/2019</i>	<i>Non compliance</i>
<i>06/12/2019</i>	<i>Show cause notice</i>	<i>11/12/2019</i>	<i>Non compliance</i>
<i>14/12/2019</i>	<i>Shaw cause notice</i>	<i>17/12/2019</i>	<i>Non compliance</i>

- 4-

8. We observe that the entire assessment proceedings were initiated on 19.10.2019 and concluded on 17.12.2019 wherein a very short span of time was given to the assessee to file it's reply on merits. In our considered view, looking into the above set of facts, the assessee did not get adequate opportunity to present it's case on merits before the Assessing Officer. Accordingly, looking into the quantum of additions, in the interest of justice, the matter is hereby restored to the file of Assessing Officer for de-novo consideration after giving due opportunity of hearing to the assessee to present it's case.

9. 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 25/03/2025**

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

Ahmedabad; Dated 25/03/2025

TANMAY, Sr. PS

**TRUE COPY**

**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.

आदेशानुसार/ BY ORDER,

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