



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

**&**

**DINESH MOHAN SINHA, JM**

**आयकरअपीलसं./ITA No.886/RJT/2024**

**निर्धारणवर्ष / Assessment Year: (2017-18)**

**(Hybrid Hearing)**

Abdulbhai Ahmadbhai Sherasiya, Gulshan Society Gipara Main Road, Danapith, Wakaner(Gujrat) - 363621	<b>Vs.</b>	Income Tax Officer- Ward 1, J.K. Chamber, National Highway – 8A, Lalpar Morbi(Gujrat) - 363642
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>BCGPS5326C</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by : Shri Samir Bhuptani, AR  
Respondent by : ShriAbhimanyu Singh Yadav, Ld SR DR  
**Date of Hearing :22 /01/2025**  
**Date of Pronouncement :28 /03/2025**

**आदेश / ORDER**

**PER DINESH MOHAN SINHA JM;**

Captioned appeal filed by assessee pertaining to Assessment Year 2017-18, is directed against order passed by Commissioner Of Income Tax (Appeal), (NAFC) Delhi vide order dated 25/09/2024, which in turn arises out of an order passed by the Assessing Officer dated 19/05/2023 u/s 147 r.w.s 144 r.w.s 144(B)of the Income Tax Act, 1961.



## 2. GROUNDS OF APPEALS:-

- 1.Ld. CIT(A) erred in law as well as on facts in passing the ex-parte appellate order u/s. 250 of the Income Tax Act, 1961 which is bad in law and without appropriate jurisdiction.
- 2.Ld. CIT(A) erred in law as well as on facts in presuming that the appellant is not interested in prosecuting the appellate proceedings.
- 3.Ld. CIT(A) erred in law as well as on facts in not adjudicating 3 the grounds of appeal raised by the appellant in his appeal memo and thereby dismissing the appeal for want of prosecution.
- 4.Ld. CIT(A) erred in law as well as on facts in not calling for submissions filed by the appellant in the course of the assessment proceedings or conducting any further inquiry for adjudicating the appeal on merit as stipulated u/s. 250 of the act.
- 5.Ld. AO erred in law as well as on facts in issuing notice u/s. of the Income Tax Act, 1961 and thereby reopening the 5 assessment, which is bad in law and without appropriate jurisdiction. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.
- 6.Ld. AO erred in law as well as on facts in passing order u/s. 148A(d) of the act, which is invalid, erroneous and bad in law. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.
- 7.Ld. AO erred in law as well as on facts in passing the order u/s. 147 r. w. s. 144 r. w. s. 144BB of the act, which is bad in law as well as without appropriate jurisdiction. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.
- 8.Ld. AO erred in law as well as on facts in contending that the appellant did not file return of income in response to notice u/s. 8 148 of the act and thereby concluding the assessment proceeding without issue of notice u/s. 143(2) of the act. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.
- 9.Ld. AO erred in law as well as on facts in preventing the appellant from making submission by closing the e-proceeding 9 and thereby violating the principles of natural justice. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.
- 10.Ld. AO erred in law as well as on facts in making addition of ₹.15,00,000/- u/s. 69A of the act in respect of the cash deposited bank during the demonetization period, which were duly accounted for in the audited books of account and reported in the return of income filed u/s. 139 of the act. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.



### 3. Facts Of The Cases recorded by The Ld CIT(A)

The assessee has filed its ITR for AY 2017-18 on 04/11/2017 declaring income of Rs. 3,00,520/-. Further, an information was received on INSIGHT portal that the assessee Sh. Abdulbhai Ahmadbhai Sherasiya Prop. Of M/s Silver Traders had deposited cash of Rs.15,00,000/- in his bank account (s)/ maintained with Union Bank of India, during the period of demonetization.

Accordingly notice u/s 148 of the Act was issued on 1/07/2022. In response to notice u/s 148 dated 10/07/2022 of the Act, the assessee has not filed his ITR for AY 2017-18, till date. That the assessment was completed within addition of Rs. 15,00,000/- U/s. 69 of the Act. that the order of assessment dated 19.05.2023 passed ex-party u/s. 147 r.w.s. 144 read with section 144B of the Income Tax of the Act. Were by income assessed at Rs. 18,00,520/-

4. An appeal filed by the assessee against the order of assessment in the office of CIT(A) on dated 02.06.2023 Ld. CITA has dismissed the appeal by order dated 25.05.2024 with a view the appellant has not affectively perusing the appeal. Since four has been notices issued for hearing to the assessee but the assessee failed to file the response of the notice.

5. That the assessee has challenged the legality and validity impugned order date 25.09.2024 before us.

(i) During the course of argument the Ld AR of the assessee submitted that the notice send by Ld. CIT(A) was on email id of the old consultant who did not inform to the assessee about the date of hearing.

(ii) On the contrary the Ld DR has relied this order of CIT(A) and further submitted that the reliving has no objection in case the assessee we given one more opportunity to this proof his case.



6. We have heard both therepresentative of the party and perused all the material available on record before us.

We note that Ld. CIT(A) has issued four notice of hearing to the assessee but no compliance was made by the assessee. We also note that non-compliance of notice by the assessee was because of no notice was served at the assessee all that notice were sent on the email id, which belong to the old consultant who did not inform to the assessee. We further note that the case was also ex-party decided by the Ld. AO because of the assessee could not upload the submission/documents because there was some technical problem with this website. The assessee has also raise grievances on web portal of the department about non-proper functioning of website. We are of the view that the assessee deserve for opportunity to present the case before the authority. Therefore the orderof the Ld. CIT(A) dated 25/09/2024 an order of Ld. AO dated 19.05.2023 are set-aside.We remit the matter back the file of Ld. AO for proper adjudication of this case. That the assessee is also directed to appear before the Ld. AO and submitted the documents in support of the return.

7. In view of the above the appeal was be allowed for statical purpose.

**Order pronounced in the open court on 28 / 03/2025.**

**Sd/-  
(Dr. A.L. SAINI)  
ACCOUNT MEMBER**

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

Rajkot

दिनांक/ Date: 28 /03 /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

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot