



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

**BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
AND
SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER**

**आयकरअपीलसं./ITA No. 402/RJT/2024
(निर्धारणवर्ष / Assessment Year: (2016-17)
(Hybrid Hearing)**

Jayshreeben Sanjaykumar Dhakan B – 101, Orchid Capital, Chandan Park Main Road, Nr. Paradise Hall, Rajkot – 360007	Vs.	Assessment Unit, Income Tax Department, National Faceless Assessment Center, ITO, Ward – 1(1)(1)
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: CPHPD9245Q		
(Appellant)		(Respondent)

Appellant by : ShriJagdish Trivedi, Ld. AR
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR
Date of Hearing : 27/03/2025
Date of Pronouncement : 04/04/2025

आदेश / ORDER

PER DINESH MOHAN SINHA, JM:

Captioned appeal filed by the assessee is directed against the order passed by the National Faceless Appeal Centre [(in short “NFAC/Ld. CIT(A)”] vide order dated 15.04.2024, which in turn assessment order passed by Assessment Unit, Income Tax Department / Assessing Officer under section 147 r.w.s. 144 and 144B of the Income Tax Act, 1961 (in short “the Act”), vide order dated 29.03.2022.

2. Grounds of appeal raised by the assessee are as follows:

1) On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in confirming the AO’s action making addition of Rs. 6,64,000/- considering as on



account of unexplained cash credits an arbitrary amount as unexplained credits without appreciating the facts and providing opportunities and evidence to criss examine.

2) On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in

3. Brief facts of the case that the assessee has not filed her return of income for AY 2016-17. The assessee's case was re-opened for assessment u/s. 147 of the I. T. Act, 1961. That the information was received from DDIT (Inv.), Unit-2, Ahmedabad vide email dated 07.07.2020. In the sworn statements they have confirmed that on money was accepted against the sale o flats. On verification of chart, it is found that the assessee smt. Jayshreejiben Sanjaykumar Shakan has made unaccounted investment of Rs. 26,55,000/- in the AY 2016-17.

2) The assessee Smt. Jayshreeben Thakkar has purchased a flat in the project of Cream city during the FY 2015-16 at the cost of Rs. 26,55,000/-. However, the value has been shown in the agreement of purchase of flat, the value has been shown as Rs. 19,91,000/- including Service tax of Rs. 1,14,960/-. The balance amount of Rs. 6,64,000/- has paid as 'on money' to the builder as per the details available on record. The property has been purchased jointly with the assessee's husband Shri. Sanjaybhai A Dhakan as per the list/ excel sheet which was impounded from the builder during the survey proceedings. Further, this fact was clarified by Shri Ashutosh Gantara, authorized signatory of company, in his survey statements.

3) In response to the notices issued, the assessee has submitted details vide her reply dated 18.02.2022. On verification of the details, it is seen that the assessee and her husband Shri. Sanjaybhai A. Dhakan has jointly taken a housing loan of Rs. 18,00,000/- from Dewan Housing Finance Corporation Limited for purchasing the said flat. The assessee has also submitted copy of bank statement and copy of purchase agreement of the property.



4) The total income of the assessee is computed as under:

Income from other sources	
Addition made u/s. 69 of the I. T. Act, 1961	Rs. 6,64,000/-
Total Income	Rs. 6,64,000/-

4. That the assessee filed an appeal against the order of the Ld. AO, vide order dated 29.03.2022. In the office of the Ld. CIT(A), Rajkot. The Ld. CIT(A) has dismissed the appeal with following observation:

“It is observed from records that the instant appeal was filed by the appellant on 30/04/2022. Almost two years have elapsed since then. It is not conceivable that the appellant could not gather relevant material or evidences during the last two years and after giving the final opportunity, the appellant is again seeking adjournment. it was clearly mentioned in the notice dated 29/03/2024 that in case of failure to reply.

there is no cause of interference with the order passed by the AO under section 147r.w.s144 of the Act dated 29/03/2022 for the AY 2016-17 in the case of the appellant and the same is confirmed.”

5. That the assessee filed an appeal against the impugned order dated 15.04.2024 before the Tribunal.

6. During the course of hearing, the Ld. AR of the assessee submitted that sister of the assessee met with breast cancer; hence the assessee could not comply with the notices issued by the Ld. CIT(A). Therefore, the Ld. AR of the assessee prayed for an opportunity to be given to the assessee to present his case before the lower authority.

7. On the other hand, the Ld. Sr. DR has relied upon the order of the Ld. CIT(A) and not objected to the prayer of the Ld. AR.



8. We have heard both the parties and perused the documents available on record. We note that four notices have been issued by the Ld. CIT(A), but there was no compliance to the notice. The Ld. CIT(A) is disposed of the appeal by an ex-parte order. We note that the main reason for non compliance was that the consultant was busy in treatment of his sister who is suffering from Cancer (Medical documents placed on record). Thereafter, we are of the view that an opportunity should be given to the assessee to present his case before the Lower Authority. We note that the Ld. AO has also passed an order u/s. 144 of the Act. We set aside the order of Ld. CIT(A) and remit the matter back to the file of Ld. AO for fresh adjudication on merit after giving due opportunity to the assessee of being heard.

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

Order pronounced in the open court on 04 -04-2025.

**Sd/-
(A. L. SAINI)
ACCOUNTANT MEMBER**

Rajkot

दिनांक/ Date: 04/04/2025

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

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

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot