



**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. 47/RJT/2024  
(निर्धारणवर्ष / Assessment Year: (2012-13)  
(Hybrid Hearing)**

<b>Ashokbhai Mahadevbhai Chavda</b> Dedadara Wadhwan, Surenderanagar – 363030	<b>Vs.</b>	<b>The ITO, ward – 1, Surenderanagar</b> Income Tax Office, Opp. Mela Medan, Surenderanagar – 363001
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AQBPC6143M</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

**Appellant by** : Ms. Vidhi Pandya, Ld. AR  
**Respondent by** : Shri Abhimanyu Singh Yadav, Ld. Sr. DR  
**Date of Hearing** : 17/03/2025  
**Date of Pronouncement** : 07/04/2025

**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 24.11.2023, which in turn assessment order passed by Assessment Unit, Income Tax Department / Assessing Officer under section 144 r.w.s. 147 of the Income Tax Act, 1961 (in short “the Act”), vide order dated 25.12.2019.

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



*1. The Ld. CIT(A) is grossly erred in passing the order u/s 250 of the Act, dismissing the appeal filed by the appellant and confirming the addition of 28,38,600 on account of unexplained investment made into MCX treated as deemed income u/s 69B of the Act. In the relevant AY, the appellant received a monetary gift from his father, a retired army officer, which was subsequently deposited in the bank. The appellant engaged in commodity transactions with the MCX using a DEMAT held with BMA Wealth Creators Ltd. The appellant's total income did not exceed the basic exemption limit, and hence, he was not required to file a return u/s 139 of the Act. Appellant is involved in agricultural activities and due to a lack of awareness regarding E-filing procedures, failed to respond to notices issued by the income tax department. We are not able to understand from where the Ld. CIT(A) has obtained the figure of Rs. 28,38,600 in the order. Appellant has not made any investments in the year under consideration.*

*2. Levy of interest u/s 234A, 234B of the Act is not justified.*

*3. Initiation of penalty proceedings u/s 271(1)(c) of the Act is not justified.*

3. Facts of the case that the assessee is a agriculturist along with the assessee is engaged in commodity transactions with the MCX using a demat. Since the total income is below the taxable limit, hence no Return of Income filed. The Ld. AO has issued notices and reopened the assessment. There was no compliance of notices of the Ld. AO. Hence, the Ld. AO passed ex-parte assessment u/s. 147 r.w.s. 144 was framed with the addition of Rs. 26,36,600/- on 24.12.2019.

4. That the assessee filed an appeal against the order of the Ld. AO, vide order dated 24.12.2019. The Ld. CIT(A) has dismissed the appeal with following observation:

*“The appellant submitted that he received cash from his father but this is also not proved by the documents submitted. The appellant has also submitted in its statement of facts that the initiation of penalty proceedings u/s. 274 r.w.s. 271(1)(c) of the Act id not justified. Since an appeal lies against on order levying penalty and not against initiation of penalty, this ground is not tenable.”*

5. That the assessee filed an appeal against the impugned order of the Ld. CIT(A) before The Tribunal.



6. Ld. AR of the assessee submitted that the assessee did not comply with the notices because the assessee was not aware about the notices and proceedings. However, the Ld. AR prayed for an opportunity to explain the case before the Lower Authority.

7. On the other hand, Ld. DR for the revenue, 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 material available on record. We noted that the several notices have been issued by the Ld. CIT(A) for hearings of the case. Since, the appellant did not submitted the relevant documents before the Ld. CIT(A). We note that the assessee has not given due care and attention to the case and the assessee has also a non-cooperative attitude in pursuing the matter for AY 2012-13. We further observed that the assessment was framed u/s. 147 r.w.s. 144 and 144B of the I. T. Act, by the Ld. AO. We note that the assessee has not made the compliance with the notices for hearing issued by the Ld. AO. We note that the assessee has not gave due care and attention to the case and negligent in pursuing the case and the assessee has also a non-cooperative attitude in pursuing the case for A.Y. 2012-13. We direct the assessee to deposit of cost of Rs. 10,000 to the Prime Minister Relief Fund (Government of India) within 10 days from today and the receipt to be submitted with the Registrar of this Tribunal. Keeping in view, in the interest of justice, that an opportunity to be given to the assessee to submit the required documents before the Lower Authority. Therefore, we set aside the order of the Ld. CIT(A) and remand the matter back to the file of the Ld. AO for fresh adjudication on merits.



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

**Order pronounced in the open court on 07-04-2025**

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

Rajkot

दिनांक/ Date: 07/04/2025

**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

// True Copy //

Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot