

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1372/SRT/2024

Assessment Year: (2018-19)

(Hybrid hearing)

Abhishek Doriwala 33/A, Plot no. 88, China Gate- 2, Behind Gayatri Mandir, Near DRB College, Surat- 395007	Vs.	Assessing Unit, Income tax Department, Jurisdiction ITO, Ward-1(2)(1), Surat
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AOKPD2241J		
(अपीलार्थी/Appellant)		(प्रत्यर्थी /Respondent)

Appellant by	Shri P M Jagasheth , CA
Respondent by	Shri Ravi Kant Gupta, CIT(DR)
Date of Hearing	20/03/2025
Date of Pronouncement	30/04/2025

आदेश / O R D E R

PER BIJAYANANDA PRUSETH, AM:

This appeal by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act'), dated 19.12.2024 by the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi [in short 'CIT(A)'] for the Assessment Year (AY) 2018-19.

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

"1. On the facts and in the circumstances of the case as well as law on the subject, the learned commissioner of the Income Tax (Appeals) has erred in confirming the action of the assessing officer in re-opening the assessment u/s.147 of the Income Tax Act, 1961 and issuing notice u/s.148 of the Income Tax Act, 1961.

2. On the facts and in the circumstances of the case as well as law on the subject, the learned commissioner of the Income Tax (Appeals) has erred in confirming the action of the assessing officer in not considering the facts of the case and made addition without any base.

3. On the facts and in the circumstances of the case as well as law on the subject, the learned commissioner of the Income Tax (Appeals) has erred in confirming the action

of the assessing officer in making addition of Rs.3,70,83,711/- on account of total credit entries in bank in bank account treated as alleged unexplained money u/s.69A of the Income Tax Act, 1961.

4. On the facts and in the circumstances of the case as well as law on the subject, the learned Commissioner of the Income Tax (Appeals) has errined in confirming the action of the Assessing Officer in initiating penalty proceedings u/s.271AAC of the Income Tax Act, 1961.

5. On the facts and in the circumstances of the case as well as law on the subject, the learned Commissioner of the Income Tax (Appeals) has not offered ample opportunities to hear the case and passed ex-parte order, hence the case may please be set aside and restored back to the CIT(A) or A.O.

6. It is therefore prayed that the above penalty may please be deleted as learned members of the tribunal may deem it proper.

7. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of the hearing of the appeal.”

3. Facts of the case in brief are that the assessee did not file his return of income for AY.2018-19. As per the INSIGHT portal (Non-filing of Return (NMS)), the Assessing Officer (in short, 'AO') found that the assessee had transactions of Rs.3,70,83,711/- in bank accounts maintained with Associate Co-op. Bank Ltd. and Akhand Anand Co-op. Bank Ltd. The AO issued notice u/s 142(1) of the Act, which was not replied to by the assessee. Subsequently, show cause notice was issued on 10.02.2023 and 23.02.2023. The assessee furnished only part reply and did not file relevant evidence. Thereafter, the AO passed order u/s 144 of the Act because assessee did not file any submission in response to various notices issued to him. He added Rs.3,70,83,711/- u/s 69A of the Act in the order passed u/s 147 r.w.s. 144 r.w.s. 144B of the Act.

4. Aggrieved by the order of AO, the assessee filed appeal before CIT(A). The CIT(A) issued notice on 14.11.2024, which was not replied to by the assessee nor any request for adjournment was sought. Therefore, the CIT(A)

dismissed the appeal by stating that the assessee has no further reason or evidence to substantiate the grounds taken up in the appeal. The onus was on the assessee to prove the claim before the AO or the appellate authorities. In absence of proper explanation, both the grounds and appeal were dismissed.

5. Aggrieved by the order of CIT(A), the assessee filed appeal before the Tribunal. The learned Authorized Representative (Id. AR) of the assessee submitted that only one notice of hearing was issued by the CIT(A) before dismissing the appeal. He submitted that the appeal was not decided on merits. He also submitted that proper opportunity of hearing was not granted to the assessee. In the interest of justice, he requested to allow another opportunity of hearing to plead his case on merits because both orders of the lower authorities are *ex parte*.

6. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR) for the revenue supported the order of the lower authorities. He would, however, have no objection if the matter is restored to CIT(A).

7. We have heard both the parties and perused the materials available on record. The AO has passed order u/s 147 r.w.s. 144 r.w.s 144B of the Act and made the addition without considering the submission of the assessee. The CIT(A) has dismissed the appeal and passed an *ex parte* order by observing that the assessee did not file any submission or requested for adjournment in response to the notice issued by him. The Id. AR submitted that all details are available with the appellant and one more opportunity may be granted to the

appellant to plead its case on merit. Considering the above facts, we are of the view that the principles of natural justice have not been adhered to the instant case. It is settled law that principles of natural justice require that the affected party is granted sufficient opportunity of being heard to present his case. Therefore, without delving much into the merits of the case, in the interest of justice, we restore the matter back to the file of CIT(A) for fresh adjudication and pass a speaking order after affording sufficient and reasonable opportunity of being heard to the assessee. The assessee is directed to furnish its submission and relevant details/documents before the CIT(A). For statistical purposes, the appeal of the assessee is treated as allowed.

8. In the result, appeals filed by the assessee are allowed for statistical purposes.

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 30/04/2025.

Sd/-
(SANJAY GARG)
JUDICIAL MEMBER

Surat

दिनांक/ Date: 30/04/2025

SAMANTA

Copy of the Order forwarded to:

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, Surat
6. Guard File

// TRUE COPY //

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Surat