



**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. 834 /RJT/ 2024

(निर्धारणवर्ष / Assessment Year: (2016-17))

(Hybrid Hearing)

Champaben Naresh Limbani, Kutch Vi. Nanikhakhar, Tal. Mandavi, Dis. Kutch - 370435	Vs.	The ITO, Gandhidham, ward-3, Bhuj-1
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AVEPP7796D		
(Appellant)		(Respondent)

Appellant by : Shri Kalpesh Doshi, Ld. AR

Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR

सुनवाईकीतारीख/ **Date of Hearing** : **13/01/2025**

घोषणाकीतारीख/**Date of Pronouncement** : **02/04/2025**

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 02.09.2024, which in turn assessment order passed by Assessment Unit, Income Tax Department / Assessing Officer under section 147 r.w.s. 144B of the Income Tax Act, 1961 (in short “the Act”), vide order dated 24.03.2024.

2. Grounds of appeal raised by the assessee:

1 That, the Ld. CIT(A) has wrongly passed the order without providing proper opportunity of being heard.



2 The Ld. CIT(A) has wrongly confirmed reopening of assessment u/s 147 of the I.T. Act, 1961.

3 The Ld. CIT(A) has wrongly confirmed addition of Rs. 1,50,00,000/- u/s 68 of the I.T. Act, 1961 on account of unexplained credit.

4 The Ld. CIT(A) has wrongly confirmed applicability of provisions of section 115BBE of the I.T. Act, 1961.

5 The Ld. CIT(A) has confirmed levy of interest u/s 234A, 234B and 234C of the I.T. Act, 1961.

6 The Ld. CIT(A) has wrongly confirmed initiation of penalty u/s 271(1)(c) and 271F of the I.T. Act, 1961.

7 The appellant craves leave to add, amend, alter, or withdraw any aforesaid grounds of appeal.

3. Brief facts of the case that the assessee has not filed return of income for Assessment year 2016-17. The assessee has made a transaction amount of Rs. 58,31,959/- for purchase the immovable property. That in notice was issued u/s. 148A(d) dated 02.03.2023 of the Act requested to furnish the details about the transaction, but the assessee did not furnished the details. An order u/s. 148A(d) was passed on 21.03.2023 of the Act. alongwith notice u/s. 148B of the Act, the assessee replied to the notice,

That purchase of immovable property of Rs. 58,00,000/-. A show cause notice was issued by the Ld. AO. The assessee has mentioned in her reply that she had entered into an agreement for sale of plot of land for Rs. 2,40,00,000/- and an amount of Rs. 1,50,00,000/- was received as token advance from M/s. Peari Developers Bhayandar, Thane and assessee stated that she had purchased the immovable property with the advance money received from M/s. Peari Developers Bhayandar only. The assessee's explanation for sources of money is extracted.

The assessee has submitted the details in respect of the transaction as mentioned above about the in immovable property. A show cause notice was issued in respect of advance money of Rs. 1,50,00,000/-taken by the



assessee from 3rd party is treated as unexplained money u/s. 68 of the Act and the same is taxable u/s. 115BBE of the Act.

S. No.	Description	Amount
1.	Income as per return of income	2,48,770/-
2.	Income/Loss as computed u/s. 143(1)(a)	
3.	Addition on account of unexplained credit as discussed in Paras 4.2.3, 4.2.4 & 4.6.	1,50,00,000
4.	Total income determined as per the above proposal	1,52,48,770

4. That the assessee has filed an appeal against the order of Ld. AO in the office of the CIT(A). The Ld. CIT(A) has issued the several notices for hearing but the assessee did not reply or submit the requisite documents before the Ld. CIT(A). Therefore, the Ld. CIT(A) has dismissed the appeal on 02.09.2024.

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

6. During the course of hearing, the Ld. AR of the assessee has submitted that registered email address belongs to old tax consultant of the assessee, who did not inform the assessee about proceedings and hearing of the cash. Therefore, the Ld. AR of the assessee prayed that one more opportunity to be given to the assessee to represent the case before lower authority.

7. On the contrary, Ld. Sr. DR for the revenue relied on the judgement of the Ld. CIT(A) and not objected to the prayer of the Ld. AR of the assessee.



8. We have heard both the parties and perused the material available on record. We noted that the notices were sent on e-mail address and the email id is belonging to the old tax consultant of the assessee, who did not inform the assessee about the proceedings and hearings. We noted that the several notices have been issued by the Ld. CIT(A) for hearings of the case. We further note that the order of the CIT(A) is silent on service of notices upon the assessee. We further observed that the assessment was framed u/s. 147 r.w.s. 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. In interest of justice, we are of the view that an opportunity should be given to the assessee to present his case before lower authority, we set aside the order of the Ld. AO and remand the matter back to the file of the Ld. AO for fresh adjudication on merits. After giving due opportunity to the assessee and the assessee is further directed to the assessee to submit all the required documents in support of the income earned during the year.

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

Order pronounced in the open court on 02 -04-2025

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

Rajkot

दिनांक/ Date: 02/04/2025

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

(True copy)

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot