



आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।
IN THE INCOME TAX APPELLATE TRIBUNAL, "SMC"
RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.186/RJT/2025

निर्धारण वर्ष/Assessment Year : 2011-12

Rajeshbhai Karshanbhai Baldha Shreenathji Krupa, Nani Deli, Choravali Street, Jamkandorna Rajkot- 360 405	बनाम/ Vs	Income Tax Officer, Ward-2(1)(1), Rajkot, Aayakar Bhavan, Rajkot-360 001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AOYPB 2671 Q		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से/Assessee by : Shri Ajay Dholariya, AR
राजस्व की ओर से/Revenue by : Shri Dheeraj Kumr Gupta, Sr-DR

सुनवाई की तारीख/**Date of Hearing** : **14/05/2025**
घोषणा की तारीख/**Date of Pronouncement** : **20/05/2025**

आदेश/**Order**

Per Dr. Arjun Lal Saini, A.M

Captioned appeal filed by assessee pertaining to Assessment Year 2011-12, is directed against the order passed under section 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") by Ld.Commissioner of Income-tax (Appeals)-2, Rajkot (in short, "Ld.CIT(A)") dated 24.01.2020, which in turn arises out of an order passed by Assessing Officer u/s 144 r.w.s 147 of the Act, on 23.11.2018.

2. At the outset itself, the ld. Counsel for the assessee submitted that during appellate proceedings Ld. CIT(A) called for remand report from Assessing Officer, however, Assessing Officer did not submit the remand report on time.



The Ld.CIT(A) passed order on 24.01.2020. Ultimately the remand report was filed by Assessing Officer on 21.01.2020 before passing the order of Ld.CIT(A), however, said remand reports have not been reached before passing appellate order by Ld.CIT(A). The Ld. Counsel for the assessee stated that assessment order was framed by the Assessing Officer u/s. 144 r.w.s. 147 of the Act. The ld. Counsel for the assessee contended that in the interest of justice, another opportunity should be given to assessee to contest his case before Assessing Officer. The Ld. Counsel for the assessee submitted that the matter may be remitted back to the file of the Assessing Officer for fresh adjudication.

3. On the other hand, the Ld. DR for the revenue did not have any objection, if the matter is remitted back to the file of the Assessing officer for fresh adjudication.

4. I have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and other materials brought on record. I note that in the assessee's case under consideration, the assessment was carried out u/s 144 r.w.s. 147 of the Act on *ad hoc* addition of Rs.17,06,000/- being unexplained investment u/s 69 of the Act. I note that ld. CIT(A) before passing order called for remand report from Assessing Officer but passed his order without getting remand report from Assessing Officer, which is against the principle of natural justice. I note that it is settled law that principles of natural justice and fair play require that the affected party is granted sufficient opportunity of being heard to contest his case. Therefore, without delving much deeper into the merits of the case, in the interest of justice, I restore the matter back to the file of Assessing Officer for *de novo* adjudication and pass a speaking order after affording sufficient opportunity of being heard to the assessee, who in turn, is also directed to contest his stand forthwith. Therefore, I deem it fit and proper to set aside the



order of the Id. CIT(A) and remit the matter back to the file of the Assessing Officer to adjudicate the issue afresh on merits. It is needless to say that the assessee will be at liberty to adduce any evidences as deemed relevant before the assessing officer at the time of assessment proceedings in consequence to this order and the Assessing Officer shall, allow the assessee adequate opportunity of being heard and to make relevant submissions, and then pass a speaking order which is fair and judicious. I do not wish to make any comments on the merits of the grounds raised by the assessee. For statistical purposes, the appeal of the assessee is treated as allowed.

5. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 20/05/2025.

Sd/-
(Dr. A.L. SAINI)
लेखा सदस्य/ACCOUNTANT MEMBER

राजकोट /Rajkot

दिनांक/ Date: 20/05/2025

DKP Outsourcing Sr.P.S

आदेश की प्रतिलिपि अत्रेषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त(अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, राजकोट/ DR, ITAT, RAJKOT
- गार्डफाईल/ Guard File

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By order/आदेश से,

सहायक पंजीकार
आयकर अपीलीय अधिकरण, राजकोट