

**IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT**  
**BEFORE DR. ARJUN LALSAINI, ACCOUNTANT MEMBER.**

**&**

**DINESH MOHAN SINHA, JUDICIAL MEMBER**

**आयकर अपील सं./ITA No. 269/RJT/2019**

**(Assessment Year: 2017-18)**

**(Hybrid Hearing)**

<b>Bharatbhusan Gupta,</b> Prop. Of Aqua Shipping, Suit - 100, Grain Merchant Association Bldg., 2 <sup>nd</sup> Floor, Plot No. 297, Wd - 12B, Gandhidham - 370001	<b>Kishanlal</b>	<b>Vs.</b>	The Income Tax Officer, (International Taxation) Gandhidham - 370210
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AFCPG3849N</b>			
<b>(अपीलार्थी/Assessee)</b>			<b>(प्रत्यर्थी/Respondent)</b>

निर्धारित की ओर से/Assessee by : Shri D.M. Rindani, Ld. AR

राजस्व की ओर से/Revenue by : Shri Abhimanyu Singh Yadav, Ld.Sr. DR

**सुनवाई की तारीख/Date of Hearing : 18/02/2025**

**घोषणा की तारीख/Date of Pronouncement : 08/05/2025**

**आदेश/ORDER**

**PER DR. A. L. SAINI, AM:**

Captioned appeal filed by the assessee, pertaining to assessment year (A.Y.) 2017-18, is directed against the order passed by the Learned Commissioner of Income Tax (Appeals)-13, Ahmedabad dated 30-08-2019, which in turn arises, out of an assessment order passed by the Assessing Officer, u/s 172(4) of the Income Tax Act, 1961 (in short, 'the Act'), vide order dated 12-12-2017.

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

*“1. The Assessment Order under section 172(4) of the Act, is bad in law as well as facts.*

*2. On the facts and in the peculiar circumstances of the case and in law, the Hon'ble Commissioner of Income-tax (Appeals) (hereinafter called as CIT(A)) erred in confirming the order of the AO by denying the benefit of Article 8 of India-Singapore Double Taxation Avoidance Agreement (tax treaty) to freight of Rs.3,37,06,110/- collected by the assessee from 1 vessels which sailed out of India, being 7.5%, Rs. 25,27,958/-, taxable income.*

*3. On the facts and in the peculiar circumstances of the case and in law, the Hon'ble CIT(A) erred in denying the benefit of the Tax treaty to the entire freight of Rs.3,37,06,110/- earned by the assessee from its Indian operation by invoking provisions of Article 24 (limitation of relief) of the tax treaty.*

*4. On the facts and in the peculiar circumstances of the case and in law, the Hon'ble CIT(A) erred in holding that the assessee had failed to comply with the condition of remittance prescribed under Article 24 of the tax treaty without appreciating the fact.*

*5. On the facts and in the peculiar circumstances of the case and in law, the Hon'ble CIT(A) erred in confirming the action of the learned AO.*

*6. The Order of the learned Commissioner of Income Tax (Appeals) is bad in law as well as facts.*

*7. The learned AO has grossly erred in initiating penalty proceedings u/s 271(1)(c) of the Act, mechanically.*

*8. The learned Commissioner of Income Tax (Appeals) erred on facts as well as in law in confirming the charging of interest u/s. 234A, 234B, and 234C of the Act, when addition itself not sustainable.”*

3. Additional ground raised by the assessee, is as follows:

*"The Order passed u/s 172(4) the Act by the Income-tax Officer, (International Taxation), Gandhidham is bad in law and deserves to be quashed, as it is passed without complying with the mandatory provisions of section 144C of the Act".*

## **Facts of the assessee`s case**

4. The relevant material facts, as culled out from the material on record, are as follows. In the assessee's case, M/s Aqua Shipping, Gandhidham (Agent of assessee-M.V. Lila 1 Ship) filed provisional return of income, on 28.11.2016, for the vessel M.V. Lila 1, arrived at the port of Kandla. The vessel sailed on 29.11.2016 and the final return filed on 22.12.2016, for the vessel u/s 172 of the Act. M/s Amarante Shipping Pte Ltd of Singapore is claimed as a freight beneficiary for the above subject vessel. The provisional return accompanied with certain details like booking note, certificate of incorporation, Tax residency certificate of freight beneficiary company, Indemnity bond and an undertaking stating that M/s Aqua Shipping, Gandhidham, was acting, as agents to the freight beneficiary and any liability arising on account of Government dues would be fulfilled by M/s Aqua Shipping, Gandhidham.

5. The Assessing Officer noticed that the return filed by the agent had contains, Master certificate issued and signed by the Master of the vessel and who authorizes the agent, M/s Aqua Shipping, Gandhidham to file the income tax return, on freight earning, on the subject vessel. On prima facie verification of the documents it was noticed by the assessing officer that certain details like freight invoice, proof of remittance of the freight, Charter Party etc. are required to be called for to verify the claim of the DTAA. Accordingly, the assessing officer had issued notice u/s 172(5) of the Act vide, letter dated 27.07.2017. In compliance to this letter, the assessee has furnished the details as per submission letter dated 10.08.2017. On perusal of submission, it was noticed by the assessing officer that the assessee has furnished the copy of freight invoice, freight remittance details, one page

booking note, without any riders/annexures. On verification of Booking Note 19.11.2016, it was noticed by the assessing officer that M/s Amarante Shipping Pte. Ltd- Singapore, has made voyage Charter party, as a charterer with vessel owner, M/s Providence Shipping Corporation, Panama, as Owner for bulk cargo of 16000 M.T. Soyabean meal from port Kandla to port Sete, France. Further, on verification of the confirmation letter filed with submission, it was also noticed by the assessing officer that the owner of the vessel itself confirmed that M/s Providence Shipping Corporation, Panama, itself is the freight beneficiary for the subject vessel for the shipment of bulk soya bean meal loading at Kandla, India. As per assessing officer, the freight beneficiary of the vessel, was M/s Providence Shipping Corporation, Panama, therefore, the assessing officer, issued a show-cause notice to the assessee/agent, vide letter dated 18.09.2017, to furnish the complete copy of Charter party dated 19.11. 2016, between M/s Providence Shiring Corporation, Panama and M/s Amarante Shipping Pte Ltd, Singapore along with copy of all annexures/Riders etc.

6. In response to the show -cause notice, the assessee has filed a letter dated 23.10.2017, before the assessing officer, stating as follows:

*"Please find attach the certificate from Providence Shipping Corporation stating that M/s Amarante Shipping Singapore is the freight beneficiary for the shipment made by K.N. Resources as per C/P 19<sup>th</sup> Nov 2016. The certificate submitted earlier was sent by mistake and to be withdrawn."*

7. Further, the contention of certificate attached with aforesaid letter was copied as under:

*"we hereby confirm that we have sublet the vessel to Amarante Shipping Singapore who are the freight beneficiary for the shipment male by K.N."*

*Resources, as per charter party dated -19th Nov 2016, Cargo Soya bean meal in bulk"*

8. However, the assessing officer rejected the contention of the assessee and observed that assessee has not furnished the copy of complete charter party in support of its claim of being freight beneficiary of subject vessel. The contention of subletting the vessel to M/s Amarante Shipping Pte Ltd, was not considered as true by the assessing officer. The assessing officer noticed that M/s Amarante Shipping Pte Ltd, has made a voyage charter party for specific quantity of cargo of soya bean meal, for specific destination with specific freight rate. A voyage charter is a legal contract for the carriage of a specified quantity of cargo by a named vessel, between named ports or certain range of ports. Under the voyage charter, the ship owner agrees to present the named vessel for loading at agreed place or port within an agreed period of time, and following loading, will carry the cargo, and deliver it to the agreed place. The charterer on the other hand agrees to pay the agreed freight. In effect the charterer hires the cargo capacity of the vessel and not the entire vessel. Once the transportation is completed, the voyage charter party contract comes to an end. In voyage charter party, freight is paid on the cargo carried & is directly proportional to the volume of the cargo carried or a lump sum freight. In the case of subletting the vessel, the vessel is hired on Time charter. A time charter is a contract for the hire of a named ship for a specified period of time without dictating a fixed route to the charterer. During the charter party contract period, the charterer could operate the vessel commercially within allowed routes freely. Under the time charter, the ship owner is responsible for vessel's running expenses. In short, the ship owner operates the vessel technically

but not commercially. The charterers on the other hand, remain responsible for commercial employment of the vessel, bunker fuel purchase & insurance, port and canal dues, pilot age and all cargo handling arrangements and cost. The time charterers normally provide the master with all instructions and sailing directions. Under time charter party contracts charterers, pay hire on daily basis to the ship owners of the vessels. Therefore, the assessing officer was of the view that the subject vessel was not sublet to M/s Amarante Shipping Pte. Ltd., it is only hired for specific cargo transportation from Port Kandla, India to Port Sete, France.

9. Considering the above facts, the assessing officer observed that M/s Amarante Shipping Pte Ltd- Singapore, is not the freight beneficiary of the subject vessels. Certificate regarding the subletting the vessel is nothing but arrangement to evade, the freight tax liability, on freight earned, on subject vessel. Therefore, assessing officer noticed that the actual freight beneficiary of the vessel, is M/s Providence Shipping Corporation- Panama and M/s Amarante Shipping Pte Ltd-Singapore, is only the agent between actual owner of Panama and actual charterer i.e. M/s KN Resources Pvt. Ltd., Raipur (India). Therefore, assessing officer noted that M/s Amarante Shipping Pte Ltd -Singapore is not the freight beneficiary of the subject vessel, hence the freight earned on such voyage is subject to tax in India. Therefore, the claim of the assessee for exemption of freight tax for the above vessels was not allowed by the assessing officer and the assessing officer thereafter computed taxability of freight tax. The assessing officer, noticed that M/s. Aqua Shipping, Gandhidham, is the agent for the said vessel and has been treated as the assessee, as it has submitted a letter of

authority from the Master of the vessel. Also, while filing the provisional return for the vessel and applying for clearance certificates from the Department, M/s Aqua Shipping, Gandhidham, had filed an indemnity bond stating that they were acting, as agents for the vessel and for the freight beneficiary and the Government of India had powers to enforce or forbear to enforce the provisions of law. They have also stated in the indemnity bond that they undertake that if any default in respect of tax is made by the principal or freight beneficiary, whom they represent, then M/s Shipping, Gandhidham, shall be liable to pay the sum so determined. As such M/s. Aqua Shipping, Gandhidham is treated as the assessee for the purpose of recovery of the freight tax, in respect of the above mentioned vessel voyage. The working of the freight income and tax thereon was worked out by the assessing officer as under:

Total amount of freight earned in USD	US\$ 4,92,060.00
Exchange Rate per US\$ (as mentioned in Provision return)	Rs. 68.50/-
Total amount of freight earned in Indian Rupees	Rs.3,37,06,110/-
Taxable income 7.5% of above	Rs 25,27,958/-
Income Tax @ 41.82% of Rs. 25,27,958/- (incl. surcharge and edu. Cess)	Rs. 10,57,192/-
Total Tax payable	Rs. 10,57,192/-
Rounded to	Rs. 10,57,190/-

## **Findings of the Learned CIT(A)**

10. Aggrieved by the order of assessing officer, the assessee carried the matter in appeal before the Id. CIT(A), who has confirmed the action of the assessing officer. The Id CIT(A) observed that the shipping income do not qualify for tax exemption, in India, under the provisions of Article 24 of the

DTAA between India and Singapore and therefore the relief claimed by the Assessee under DTAA between India and Singapore should be rejected. Even, if it is presumed that Amarante Shipping Pte. Ltd. is the freight beneficiary for the purpose of voyages made in India, even then the Assessee is not entitled to claim benefit due to provisions of Article 24 of the DTAA between India and Singapore. The Id CIT(A) noticed that M/s Amarante Shipping Pte Ltd -Singapore is not the freight beneficiary of the subject vessels. Certificate regarding the subletting the vessel is nothing but arrangement to evade the freight tax liability on freight earned on subject vessel. Therefore, it is clear that the actual freight beneficiary of the vessel is M/s. Providence Shipping Corporation, Panama and M/s. Amarante Shipping Pvt Ltd. Singapore is only the agent between actual owner of Panama and actual charterer, that is, M/S. K. N. Resoureces Pvt. Ltd., Raipur (India). It is therefore clear that M/s. Amarante Shipping Pte Ltd., Singapore is not the freight beneficiary of the subject vessel hence the freight earned on such voyage is subject to tax in India. Therefore, the claim of the assessee for exemption of freight tax for the above vessel is not allowed and should be rejected. This way, the Id CIT(A) was in conformity with the findings of the assessing officer and noticed that in this case M/s. Aqua Shipping has been treated as the representative assessee for the purpose of recovery of the freight tax in respect of the above mentioned voyages made by the Principal Providence Shipping Corporation. Therefore, the Id. CIT(A) confirmed the action of the assessing officer.

11. Aggrieved by the order of the Id. CIT(A), the assessee is in further appeal before us.

## **Admission of additional legal ground and arguments of Learned Counsel for the Assessee and Learned DR for the Revenue.**

12. Shri D.M. Rindani, Learned Counsel of the assessee, begins by pointing out that additional ground raised by the assessee, is on legal issue and all facts are on record, therefore, it should be admitted and adjudicated first.

13. On the other hand, learned Senior DR for the revenue submitted that assessee cannot raise legal ground at this stage, as the assessee never raised such a legal ground before the authorities below.

14. We have heard both the parties on this preliminary issue, regarding admission of additional legal ground raised by the assessee. The additional, legal ground raised by the assessee, is reproduced below for ready reference.

*"The Order passed u/s 172(4) the Act by the Income-tax Officer, (International Taxation), Gandhidham is bad in law and deserves to be quashed, as it is passed without complying with the mandatory provisions of section 144C of the Act".*

We note that assessee neither raised the above ground before the Id. CIT(A) nor in the course of assessment proceedings. The ground regarding the validity of assessment u/s 172(4) of the Act, is raised before the Tribunal, first time, by way of additional ground, with appropriate prayer to admit the same. Learned Counsel submits before us that additional ground of appeal

may be admitted, as it is being purely a legal issue and all facts are already on record. On the other hand, Learned DR for the Revenue pleaded that assessee did not raise this issue during the appellate proceedings, before the Id CIT(A), therefore, at this stage the assessee can not raise additional ground on legal issue.

15. We note that assessee has raised the additional ground on the legal issue challenging the validity of assessment proceedings under section 172(4) of the Act. We note that the facts relating to proceedings under section 172(4) of the Act were there before the assessing officer as well as before the Id.CIT(A). We note that it is purely a legal issue and all facts are already on record which goes to the root of the matter and no further inquiry is required for deciding the same as all facts are already on record. Therefore, in the light of ratio laid down by the Hon'ble Supreme Court in the case of *National Thermal Power Company Ltd., vs. CIT* (1998) 229 ITR 382 (SC), we admit the additional ground raised by the assessee and first, we shall adjudicate the same.

### **Arguments of Learned Counsel for the Assessee on additional legal ground.**

16. Learned Counsel for the assessee vehemently argued in brief that assessing officer failed to follow the procedure and the mandatory provision given in substantive section 144C of the Act. The assessing officer never forwarded a draft order to the assessee, for his acceptance, therefore order passed by the assessing officer should be quashed.

## **Arguments of Learned DR for the Revenue on additional legal ground**

17. The Ld. Sr-DR for the revenue submitted before us written submission. In addition to this he made oral arguments also. The sum and substance of his arguments are that there is no major breach of duty by the assessing officer so far the procedure mentioned, under section 144C of the Act, is concerned. For such minor mistake, that assessing officer forgot to forward, draft order to the assessee for his acceptance/ rejection, the assessment order may not be quashed and appeal of the assessee should be decided on merit.

### **Analysis and conclusion**

18. We have heard both the parties, on the additional legal ground raised by the assessee. We note that Article 265 of the Constitution of India lays down that, “No tax shall be levied or collected except by authority of law”. The Hon’ble Supreme Court of India has held that this provision under Article 265 of the Constitution of India is applicable not only for levy but also for the collection of taxes and the expression “assessment” within its compass covers both the aspects carried out by the executive functionary. [Chottabhai Vs. Union of India 1962 SCR Supl.2 1006]. Therefore, it is required that whole of the process of taxation must follow the procedures which are valid under the law and must adhere to law that is, substantive one as well as **procedural one too**. Therefore, in other words it is provided in the Constitution of India that every step should be taken to ensure that levy and collection of the taxes is strictly in accordance with law – not only

substantive one but the **procedural law**, as well. The law casts a duty on the part of every person whose income is above limit for which no tax is payable to file a return of income. A return of income is filed then **the procedural framework** for framing an assessment, which is mentioned under the Income Tax Act comes into play. The procedural framework for framing an assessment order should be followed, strictly. We note that additional, legal ground raised by the assessee is an important because it is a legal ground on jurisdictional aspect/ **procedural aspect** and hence it does not require investigation of facts.

19. We note that assessment order is framed by the assessing officer without following the statutory provisions of section 144C of the Act, which also apply to assessments of non-residents. The provisions of section 144C of the Act, is reproduced below (to the extent applicable for our analysis):

***“Reference to dispute resolution panel.***

***144C. (1) The Assessing Officer shall, notwithstanding anything to the contrary contained in this Act, in the first instance, forward a draft of the proposed order of assessment (hereafter in this section referred to as the draft order) to the eligible assessee if he proposes to make, on or after the 1st day of October, 2009, any variation which is prejudicial to the interest of such assessee.***

***(2) On receipt of the draft order, the eligible assessee shall, within thirty days of the receipt by him of the draft order,-***

***(a) file his acceptance of the variations to the Assessing Officer, or***

***(b) file his objections, if any, to such variation with,-***

***(i) the Dispute Resolution Panel; and***

***(ii) the Assessing Officer.***

***(3) The Assessing Officer shall complete the assessment on the basis of the draft order, if-***

**(a) the assessee intimates to the Assessing Officer the acceptance of the variation; or**

**(b) no objections are received within the period specified in sub-section (2).**

*(4) The Assessing Officer shall, notwithstanding anything contained in section 153 [or section 153B], pass the assessment order under sub-section (3) within one month from the end of the month in which,-*

*(a) the acceptance is received; or*

*(b) the period of filing of objections under sub-section (2) expires.*

*(5) The Dispute Resolution Panel shall, in a case where any objection is received under sub-section (2), issue such directions, as it thinks fit, for the guidance of the Assessing Officer to enable him to complete the assessment.*

*(6) The Dispute Resolution Panel shall issue the directions referred to in sub-section (5), after considering the following, namely:-*

*(a) draft order;*

*(b) objections filed by the assessee;*

*(c) evidence furnished by the assessee;*

*(d) report, if any, of the Assessing Officer, Valuation Officer or Transfer Pricing Officer or any other authority;*

*(e) records relating to the draft order;*

*(f) evidence collected by, or caused to be collected by, it, and*

*(g) result of any enquiry made by, or caused to be made by, it.*

*(7) The Dispute Resolution Panel may, before issuing any directions referred to in sub-section (5), -*

*(a) make such further enquiry, as it thinks fit; or*

*(b) cause any further enquiry to be made by any income-tax authority and report the result of the same to it.*

*(8) The Dispute Resolution Panel may confirm, reduce or enhance the variations proposed in the draft order so, however, that it shall not set aside any proposed variation or issue any direction under sub-section (5) for further enquiry and passing of the assessment order.....”*

20. From the above provisions of section 144C of the Act, it is vivid that the Assessing Officer must at **“first instance, forward a draft of the proposed order of assessment to the assessee”**, however, the assessing officer did not follow this mandatory provision of section 144C of the Act, therefore, assessee deprived from the consequential opportunities/ benefits available to him. We also find

that such action of the assessing officer is also against the principle of natural justice. We note that the Hon'ble Supreme Court in *M.S.Gill vs The Chief Election Commission* 1978 AIR SC 851 held "The dichotomy between administrative and quasi-judicial function vis-à-vis the doctrine of natural justice is presumably obsolescent after *Kraipak* (*A.K. Kraipak vs UOI* AIR 1970 SC 150) which makes the water-shed in the application of natural justice to administrative proceedings. The rules of natural justice are rooted in all legal systems and are not any new theology. They are manifested in the twin principles of *nemo judex in parte sua* (no person shall be a judge in his own case) and *audi alterem partem* (the right to be heard). It has been pointed out that the aim of natural justice is to secure justice.

21. Therefore, as per provisions of section 144C of the Act, as noted above, the assessing officer, must send a draft order to the assessee, and if the assessee objects to variation in income, hearing should take place before the Dispute Resolution Panel (DRP), and then the Assessing Officer must pass order as per directions of DRP. In the assessee's case under consideration, this statutory/mandatory assessment procedure has not been followed by the assessing officer and the Assessing Officer has directly passed assessment order u/s 172(4) of the Act, although apparently, assessing officer had no powers to do so, without following **section 144C procedure**, when the assessee is an agent of non-resident/foreign company. The assessment orders passed without following statutory provisions such as notice, approval are held to be without jurisdiction, hence bad in law, null and void-ab-initio and should be quashed. On these identical facts, the

Hon`ble High Court of Delhi in the case of ESPN Star Sports (2016) 388 ITR 383 (Delhi), held as follows:

*“.....31. It is a matter of concern that the AO has in the present case has chosen to label the order of the DRP to be invalid and that is the justification for not complying with the said order. As already noticed, the DRP, in terms of Section 144C(15)(a) is a collegium of three Principal Commissioners or the Commissioner of Income Tax. The DRP admittedly is the superior authority in relation to an AO who in this case appears to be Additional CIT. Section 144C(10) read with Section 144C (13) makes it abundantly clear that there is no option with an AO but to be bound by orders and subject to review by the DRP. It is bound by the DRP. A reference may also be made to the decision in Zuari Cement Ltd. (supra) where it was held that an order of assessment which is contrary to the mandatory provisions of Section 144C of the Act was declared as "one without jurisdiction, null and void and enforceable." It is therefore, for this reason, in the said case, the High Court of Andhra Pradesh set aside the impugned order while allowing the writ petition notwithstanding that the Petitioner had a statutory remedy available to it.*

*45. For the above reasons, the draft assessment order dated 28th March, 2014 and the final assessment order dated 28th January, 2015 passed by the AO are held to be void ab initio and quashed on that basis. The orders consequential thereto also do not survive. However, it is clarified that the Court has not expressed any opinion regarding the validity of the proceedings against the Petitioners under Section 147/148 of the Act. The rights and contentions of the parties in those proceedings are left open to be urged and decided by the appropriate authority in accordance with law.....”*

22. Hon`ble High Court of Madras, in the case of Vijay Television (P.) Ltd. [2014] 46 taxmann.com 100 (Madras), held that where pursuant to order of TPO, Assessing Officer passed a final order under section 143(3) instead of passing a draft assessment order under section 144C, there being violation of procedure prescribed under Act, impugned order was to be set aside and, in such a case, even corrigendum issued by Assessing Officer modifying final order of assessment to be read as a draft assessment order, could not cure defect existing in original order.

23. In the assessee's case under consideration, the facts on record clearly reveal that the Assessing Officer has not framed any draft assessment order. Therefore, as per the mandate of section 144C(1) of the Act, the Assessing Officer should have passed the draft assessment order which has not been done in the present case. Thus, the final assessment order passed by the Assessing Officer without proposing the draft assessment order is against the scheme of the Act and in complete violation of the mandate of section 144C(1) of the Act. That being the case, it is a patent jurisdictional error committed by the Assessing Officer which is incurable. The Hon'ble Andhra Pradesh High Court in *Zuari Cement Ltd. v/s ACIT*, in W.P. No.5557/2012, vide judgment dated 21<sup>st</sup> February 2013, has laid down the ratio expressing the aforesaid view. It is relevant to observe, that the Special Leave Petition (SLP) filed by the Revenue against the aforesaid decision of the Hon'ble Andhra Pradesh High Court, has been dismissed by the Hon'ble Supreme Court. Following the aforesaid decision of the Hon'ble Andhra Pradesh High Court, different High Courts have held that without framing a draft assessment order under section 144C(1) of the Act, the Assessing Officer cannot pass final assessment order. Thus, keeping in view the relevant statutory provisions as well as the ratio laid down in the decisions referred to above, we have no hesitation in holding that the impugned assessment order having been passed without complying to the mandatory provisions of section 144C of the Act, should be declared as void ab-initio. Accordingly, the impugned assessment order framed by the assessing officer under section 172(4) of the Income Tax Act, dated 12.12.2017, should be quashed.

24. In view of the reasons set out above, as also bearing in mind entirety of the case, we are of the considered view that the assessment order was framed by the assessing officer, without following **section 144C procedure, which is mandatory**, as set out earlier, therefore, assessment order passed/**procedure followed** by the assessing officer, is void-ab-initio and should be quashed. We, therefore, quashed the assessment order. As the assessment itself is quashed, all other issues on merits of the additions, in the impugned assessment proceedings, are rendered academic and infructuous.

25. In the result, the appeal is allowed in the terms indicated above.

Order pronounced in the open court on 08-05-2025.

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

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

Rajkot

Dated: 08/05/2025

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Rajkot
6. Guard file.

**// True Copy //**

By order/आदेश से,

Assistant Registrar  
ITAT, Rajkot