

आयकर अपीलीय अधिकरण, सूरत न्यायपीठ, सूरत ।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
SURAT BENCH, SURAT  
[conducted through Hybrid mode]

श्री संजय गर्ग, न्यायिक सदस्य एवं  
श्री बिजयानन्दा प्रुसेथ, लेखा सदस्य के समक्ष।

Before Shri Sanjay Garg, Judicial Member And  
Shri Bijayananda Pruseth, Accountant Member

आयकर अपील सं./ITA No.59/SRT/2025  
निर्धारण वर्ष / Assessment Year : 2008-09

Gunjan Agarwal (Prop. Shree Grih Shobha Sarees 457, Millennium Textile Market-2 Ring Road, Surat - 395 002	<u>बनाम/</u> <u>v/s.</u>	The ITO Ward-1(2)(2) Surat
स्थायी लेखा सं./PAN: AEWPA 8182 K		
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
Assessee by :		Ms. Dalzin Madan, CA
Revenue by :		Shri Mukesh Jain, CIT (DR)

सुनवाई की तारीख/Date of Hearing : 30/04/2025  
घोषणा की तारीख /Date of Pronouncement: 27/05/2025

आदेश/O R D E R

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'CIT(A)'] dated 21/11/2024 for the Assessment Year (AY) 2008-09.

2. The assessee has raised the following grounds of appeal:

1. On facts and circumstances of the case and in law, the learned CIT(A), NFAC has grossly erred in passing the impugned appellate order on an Ex-

*parte basis, without providing the appellant a proper opportunity of being heard. Therefore, the appellate order of the learned CIT(A), needs to be quashed and the penalty u/s. 271(1)(c) of the Act as levied by the learned ITO needs to be deleted.*

*2. On facts and circumstances of the case and in law, the learned CIT(A), NFAC has grossly erred in confirming the penalty of Rs. 1,53,834/- u/s. 271(1)(c) of the Act in respect of additions made purely on estimate, guesswork, conjectures and surmises without appreciating that there is neither concealment of income nor furnishing of inaccurate particulars in respect thereof.*

*Hence, the impugned penalty levied u/s 271(1)(c) of the Act, is absolutely erroneous, incorrect and bad-in-law and needs to be deleted.*

*3. Without prejudice to the aforesaid ground of appeal no. 2, even otherwise on facts and circumstances of the case and in law, the learned CIT(A), NFAC has grossly erred in confirming the penalty at Rs. 1,53,834/u/s. 271(1)(c) of the Act in respect of the entire additions of Rs. 5,12,779 as confirmed by the learned CIT(A), despite the fact that in further appeal the Hon'ble ITAT has upheld an addition of only Rs. 36,730/ out of the said addition of Rs. 5,12,779/-, which needs to be rectified as being absolutely erroneous and illegal.*

*4. The appellant craves to add, amend, alter, substitute, modify any or all the above grounds of appeal, if necessary, on the basis of submissions to be made at the time of personal hearing.*

3. At the outset, the Ld.Counsel for the assessee has invited our attention to the order of the Surat Bench of the Tribunal dated 05/05/2019 passed in ITA No.1451/Ahd/2015, whereby, the Tribunal has deleted the major part of the quantum addition in the case of the assessee and only the addition of Rs.36,730/- has been confirmed out of total addition made by the lower authorities of Rs.5,12,779/-. Even the minor addition of Rs.36,730/- has been confirmed, only on estimated basis, by applying Gross Profit (GP) rate in respect of deficit in the quantity of goods/cloth sent by the assessee for the job-work against the goods/cloth received from job-workers holding the

same was not fully explained. It seems that the impugned minor addition has been confirmed by the Tribunal on estimation basis, however, the nature of the said addition in our view, does not warranted levy of penalty u/s.271(1)(c) of the Income Tax Act, 1961. Therefore, it is not a case of concealment of income or furnishing of inaccurate particulars of income. The impugned order of penalty is, therefore, not sustainable and the same is set aside and the impugned penalty stands deleted.

4. In the result, the appeal of the assessee is hereby allowed.

**Order pronounced in the Open Court on 27/05/2025.**

**Sd/-**  
**(Bijayananda Pruseth)**  
**Accountant Member**

**Sd/-**  
**( Sanjay Garg )**  
**Judicial Member**

अहमदाबाद / Ahmedabad, दिनांक / Dated 27/05/2025

*टी. सी. नायर, व. नि. स. / T.C. NAIR, Sr. PS*

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A) -
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, सूरत / AR, ITAT, Surat / Ahmedabad.
6. गार्ड फाईल / Guard file.

आदेशानुसार / BY ORDER,

सत्यापित प्रति // True Copy //

सहायक पंजीकार (Asstt. Registrar)  
आयकर अपीलीय अधिकरण, ITAT, Surat / Ahmedabad