

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 Nos.47, 48 & 49/SRT/2025
निर्धारण वर्ष / Assessment Year : 2022-23

Ketan Hitendrakumar Khatri Prop. Aakruti Gems 5/905 B-506, Bhagya Building Ghiya Sheri Corner SMC Arogya Kendra Mahidharpura, Surat 395 003	बनाम/ v/s.	ITO Ward-2(3)92 Aaykar Bhavan, Majura Gate Surat - 395 001
स्थायी लेखा सं./PAN: DQZPR 7170 M		
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
Assessee by :		Shri P.M. Jagasheth, 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 captioned appeals have been preferred by the assessee against the separate orders of even date 18/12/2024 of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'CIT(A)'] for the Assessment Year (AY) 2022-23.

2. Since the facts and issues involved in all these three appeals are identical, these appeals were heard together and are being disposed of by this common order. First, we shall take up ITA No.47/SRT/2025 as the lead case.

ITA No.47/SRT/2025

3. The assessee has taken following grounds of appeal:

1. *On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of Income Tax (Appeals) has erred in confirming the action of the Assessing Officer in making addition of Rs.56,54,029/ on account of alleged Estimation of income 1 percent on turnover and income declared in Return of income, hence the Balance amount Rs.56,54,029/- (12824149-7170120) treated as income.*
2. *On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of Income Tax (Appeals) has erred in confirming the action of the Assessing Officer in initiating penalty proceedings U/s. 270A of the Income Tax Act, 1961.*
3. *On the facts and in the circumstances of the case as well as the law on the subject. the learned Commissioner of the Income Tax (Appeals) has erred in confirming the action of the Assessing Officer in initiating penalty u/s.272A(1)(d) of the Income Tax Act, 1961.*
4. *On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of the Income Tax (Appeals) has not offered adequate opportunities to hear the case and passed ex-parte order and hence the case may please be set aside and restored back to the CIT(A) or AO.*
5. *It is therefore prayed that the above addition may please be deleted as learned members of the tribunal may deem it proper.*
6. *Appellant craves leave to add, alter or delete any ground(s) either before or in the course of the hearing of the appeal.*

4. At the outset, the Ld.Counsel for the assessee has invited our attention to the impugned order of the Ld.CIT(A) to submit that the impugned order of the Ld.CIT(A) is *ex-parte* of the assessee. The Ld.Counsel has further demonstrated that the Ld.CIT(A) had allegedly sent the notices of hearing on

e-mail of the assessee. He has further invited our attention to the relevant appeal (Form No.35) submitted before the Ld.CIT(A), wherein in response to relevant query "Whether notices/Communication may be sent on e-mail?", the assessee had answered, "No". The Ld.Counsel, therefore, has pleaded that the assessee had mentioned in Form No.35 that the notices may not be sent to him on e-mail, however, the Ld.CIT(A) sent the notices on e-mail, which did not come to the notice of the assessee and, therefore, the case of the assessee remained unrepresented before the Ld.CIT(A).

5. Since the non-participation by the assessee in the appellate proceedings was not intentional, rather was due to the aforesaid facts and circumstances, therefore, in our view, the interests of justice will be well served, if the assessee is given an opportunity to present his case before the Ld.CIT(A).

6. In view of this, the impugned order of the CIT(A) is set aside and the matter is restored to the file of Ld.CIT(A) for decision afresh. The Ld.CIT(A) will serve notice of hearing through physical mode at the address provided by the assessee in Appeal Form i.e. Form-35. It is further observed that even the impugned order of the AO is an *ex-parte* order passed u/s.144 of the Income Tax Act, 1961. Under the circumstances, for just and proper decision of the case, it is directed that if the assessee will furnish any evidences or details before the Ld.CIT(A), the Ld.CIT(A) will call for the remand report on such evidences/details, if furnished by the assessee, thereafter to decide the appeal of the assessee on merits in accordance with law.

ITA Nos.48/SRT/2025 & 49/SRT/2025

7. Since the facts and issues involved are identical in these two appeals, hence our findings given above in respect of ITA No.47/SRT/2025 will apply mutatis mutandis to these appeals also. The matter in these appeals is also restored to the file of Ld.CIT(A) for decision afresh in terms as indicated above.

8. In the result, all the captioned three appeals are treated as allowed for statistical purposes.

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) - (NFAC), Delhi
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, सूत / DR, ITAT, Ahmedabad.
6. गार्ड फाईल / Guard file.

आदेशानुसार / BY ORDER,

सत्यापित प्रति // True Copy //

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