

IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT
(HYBRID HEARING)

**Before: Shri T.R. Senthil Kumar, Judicial Member And
Shri Bijayananda Pruseth, Accountant Member**

**ITA No: 818/SRT/2023
Assessment Year: 2017-18**

Pramodbhai Nanubhai Ahir 139-240, Shree Varudi Petroleum, Velchha, Mangrol, Gujarat-394405 PAN: AYOPA8229P (Appellant)	Vs	Income Tax Officer Ward-1, Bardoli, Surat (Respondent)
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Assessee Represented: Shri Suresh K. Kabra, CA
Revenue Represented: Ms. Neerja Sharma, Sr.D.R.

Date of hearing : 05-05-2025
Date of pronouncement : 07-05-2025

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against the exparte appellate order dated 30.10.2023 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), arising out of the exparte assessment order passed under section 144 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2017-18.

2. Brief facts of the case is that the assessee is an individual engaged in the business of selling petroleum products. The assessee has not filed the Return of Income for the Assessment Year 2017-18, however made cash deposits of Rs.74,12,420/- in his bank account during the demonetization period. Hence a notice u/s. 142(1) of the Act was issued to file the Return of Income, the assessee failed to response to the above notice. Therefore the A.O. obtained bank statements by issuing notice u/s. 133(6) from the bank authorities.

2.1. On perusal of the bank statement, the A.O. noted that the assessee credits of Rs.4,68,71,476/- out of which Rs. 44,12,420/- was cash deposit during demonetization period. Therefore the Assessing Officer estimated the business income at 8% of the gross receipts at Rs. 32,95,500/- and also made addition u/s. 69A of the unexplained money of Rs. 32,15,507/- and demanded tax thereon.

3. Aggrieved against the exparte assessment order, assessee filed an appeal before Ld. CIT(A). The assessee was provided many opportunities of hearing to file written submissions and documentary submissions in support of the Grounds of Appeal raised. Since the assessee failed to file written submissions and in the absence of any further details, the Ld. CIT(A) confirmed the addition and dismissed the appeal filed by the assessee.

4. Aggrieved against the exparte appellate order, the assessee is in appeal before us raising the following Grounds of Appeal:

1. On facts and circumstances of the case and in law, the Ld. A.O. has made addition of Rs. 32,95,500/- on account of estimation of income at the

rate of 8% on the total turnover of Rs.4,11,93,753/-. The petrol pump dealers get a fixed margin as regulated by the Government of India.

2. On facts and circumstances of the case and in law, the Ld.A.O. has made an addition of Rs.32,15,507/- on account of unexplained money which is actually out of sale proceeds.

5. Ld. Counsel for the assessee filed a Paper Book running to 143 pages, wherein copy of the balance sheet, bank statements, cash book, purchase bills issued by IOCL and dealership agreement with IOCL are filed. Thus Ld. Counsel pleaded that one more opportunity of hearing be granted to the assessee to submit all the relevant details.

6. Per contra, Ld. Sr. D.R. appearing for the Revenue submitted that the assessee not even filed the Return of Income pursuant to the notice issued u/s. 142(1) of the Act. Therefore heavy cost be imposed on the assessee for setting aside the matter.

7. We have given our thoughtful consideration and perused the materials available on record. It is undisputed fact that the assessee has not filed the Return of Income originally as well as in response to the notice issued u/s. 142(1) of the Act, but claims that he has paid the tax of Rs.9,00,583/- which was paid on 31-03-2018 vide BSR Code No. 0290179. Further the assessee produced the cash book, purchase bills, bank statements and balance sheet as on 31-03-2017. Therefore in the interest of Principle of Natural Justice, we deem it fit to set aside the order passed by the lower authorities by imposing a cost of Rs. 10,000/- payable by the assessee to the Income Tax Department, within two weeks of

receipt of this order copy. On producing the receipt for payment of the cost, the Jurisdictional Assessing Officer is directed to give one more opportunity of hearing to the assessee and pass assessment order in accordance with law. Needless to say, the assessee should make use of this final opportunity by filing all necessary details/records before the Assessing Officer for passing fresh assessment order.

8. In the result, the appeal filed the Assessee is allowed for statistical purpose.

Order pronounced under proviso to Rule 34 of ITAT Rules, 1963 on 07-05-2025

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Ahmedabad : Dated 07/05/2025

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

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

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
सूरत