

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI TR SENTHIL KUMAR, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER
आयकर अपील सं./ITA Nos.1253 to 1255/SRT/2024**

Assessment Years: 2013-14 to 2015-16)

(Hybrid hearing)

Ashokkumar Bhulabhai Rathod Opp. Reliance Tower, Karcheliya, Mahuva-394 240	Vs	NFAC, Delhi current jurisdiction-Income Tax Officer, Ward No.1, Bardoli, Income-tax Office, 2 nd Floor, Opp. Jalaram Temple, Station Road, Bardoli- 394 601
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: ABXPR 3858 F		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से /Appellant by	Shri Rasesh Shah, CA
राजस्व की ओर से /Respondent by	Ms. Neerja Sharma, Sr-DR
सुनवाई की तारीख/Date of Hearing	07/05/2025
उद्घोषणा की तारीख/Date of Pronouncement	19/06/2025

आदेश / ORDER

PER BENCH:

These three appeals by the assessee emanate from the separate orders passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') all dated 30.09.2024 by the National Faceless Appeal Centre (NFAC), Delhi/Commissioner of Income-tax (Appeals) [in short, 'NFAC/Ld. CIT(A)'] for the Assessment Years (AY) 2013-14, 2014-15 and 2015-16, which in turn arose out of separate assessment orders passed by Assessing Officer (in short, 'AO') u/s 147 r.w.s. 144 r.w.s. 144B of the Act dated 24.05.2023, 18.05.2023 and 19.05.2023. Since facts are same except variance of amounts, with consent of the parties, the appeals were heard together and a common

order is passed for the sake of convenience and brevity. For the appreciation of facts, assessee's appeal in ITA No.1253/SRT/2024 for AY 2013-14 as "**lead**" case.

2. Grounds of appeal raised by the assessee are as under:

"1. On the facts and in the circumstances of the case as well as law on the subject, the learned CIT(A) has erred in passing ex-parte order without giving reasonable and sufficient opportunity of being heard.

2. On the facts and in the circumstances of the case as well as law on the subject, the learned CIT(A) has erred in dismissing the appeal without passing speaking order.

3. On the facts and in the circumstances of the case as well as law on the subject, the learned Assessing Officer has erred in re-opening assessment u/s 147 by issuing notice u/s 148 of the I.T. Act, 1961.

4. On the facts and in the circumstances of the case as well as law on the subject, the jurisdictional Assessing Officer has erred in issuing notice u/s 148A(b) when it was actually required to be issued by the Assessment Unit (NFAC).

5. On the facts and in the circumstances of the case as well as law on the subject, the learned Assessing Officer has erred in making an addition of Rs.1,22,89,911/- u/s 69A of the Act on account of alleged unexplained income being difference between the credits in the bank accounts and gross receipts declared by the assessee.

6. It is therefore prayed that addition made by the Assessing Officer and confirmed by CIT(A) may please be deleted.

7. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal."

3. Facts of the case in brief are that as per the information received from the ADIT(Inv.)-I, Surat, the assessee had deposited cash of Rs.51,00,000/- on 03.05.2012 to close his NPA loan accounts. The ADIT(Inv.) issued summons to the assessee, but he failed to comply with the said summons. It was found that there were total credits of Rs.1,48,57,986/- including cash deposit of Rs.54,55,230/- in the four bank accounts of the assessee. However, assessee had shown receipt of Rs.25,68,075/- in his Income Tax Return (ITR) for AY 2013-14. Thus, there was difference of Rs.1,22,89,911/-. In view of these facts,

order u/s 148A(d) was passed by the JAO and subsequently notice u/s 148 was issued. The assessee was granted various opportunities which were not complied with. As the assessee failed to file documentary evidence in respect of the source of funds utilized to deposit the cash and other credits in the bank accounts, the AO passed order u/s 147 r.w.s. 144 r.w.s. 144B of the Act by adding Rs.1,22,89,911/- u/s 69A of the Act. The total income was determined at Rs.1,29,05,961/- as against returned income of Rs.6,16,050/-. Aggrieved by the addition made by AO, assessee preferred appeal before CIT(A).

4. The CIT(A) issued three notices fixing the hearings on 17.09.2024, 24.09.2024 and 27.09.2024; but, the appellant did not file any written submission or details. Hence, the CIT(A) decided the appeal based on the information available on record including the statements of facts and grounds of appeal. The CIT(A) condoned the delay of 129 days in filing the appeal before him. As the assessee failed to comply with any of the notices issued during the appellate proceedings, CIT(A) upheld addition made by the AO and dismissed the appeal.

5. Further aggrieved by the order of CIT(A), the assessee has filed present appeal before the Tribunal. The Ld. AR submitted that the notices were issued in wrong e-mail address i.e., dipal_it_shah@yahoo.in instead of drashokrathod42@gmail.com mentioned in Form-35. The Ld. AR has submitted screen shot of the said notices to support his claim that there was no proper service of notice. Hence, the order of CIT(A) was passed without

giving reasonable and sufficient opportunity of being heard to assessee. This is in clear violation of principles of natural justice. He submitted that appellant is ready with all the details in support of the grounds raised in the appeal. Therefore, he requested to set aside the order of CIT(A) and grant one more opportunity to plead its case on merit.

6. On the other hand, Sr-DR for the revenue supported the order of lower authorities. He would, however, have no objection if the matter is remanded back to the file of lower authority, as deemed fit by the Bench.

7. We have heard both the parties and perused the materials on record. We find that both lower authorities have passed ex parte orders due to non compliance by the assessee to the statutory and show cause notices issued to the assessee. The Ld. AR has filed evidence in support of the claim that notices were issued by the CIT(A) in wrong e-mail id. This claim has not been controverted by the Revenue. Considering the above facts, we are of the view that the principles of natural justice have not been adhered to in the instant case. It is settled law that the principles of natural justice require that the affected party is granted sufficient opportunity of being heard to present his case. Therefore, without delving deeper into the merits of the case, in the interest of justice, we set aside the order of CIT(A) and restore the matter to the file of AO for *de novo* order in accordance with law after affording adequate and reasonable opportunity of being heard to the assessee. The assessee is directed to furnish his submission and relevant details/evidence

before the AO by not seeking adjournment without valid reason. For statistical purposes, appeal of assessee is treated as allowed.

8. In the result, appeal of the assessee is allowed for statistical purposes.

ITA No.1254 & 1255/SRT/2024 (AYs. 2014-15 and 2015-16)

9. The facts in both the cases are similar to the facts of ITA No.1253/SRT/2024 for A.Y. 2013-14 decided above. The appellant has also raised similar grounds of appeal in both years. Hence, following the reasons given in ITA No.1253/SRT/2024 (supra), the orders of CIT(A) for both the years are set aside and restored to the file of AO for *de novo* orders in accordance with law after affording adequate and reasonable opportunity of being heard to the assessee.

10. In the result, both the appeals of assessee are allowed for statistical purposes.

11. In combined result, all the three appeals of assessee are allowed for statistical purposes.

Order pronounced under proviso to Rule 34 of the ITAT Rules, 1963 on 19/06/2025 in the open court.

Sd/-

(TR SENTHIL KUMAR)

न्यायिक सदस्य/JUDICIAL MEMBER

सूरत /Surat

दिनांक/ Date: 19/06/2025

Dkp Outsourcing Sr.P.S*

Sd/-

(BIJAYANANDA PRUSETH)

लेखा सदस्य/ ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अद्योषित/ 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 अधिकरण, सूरत/ DR, ITAT, SURAT
- गार्ड फाईल/ Guard File

By order/आदेश से,

// TRUE COPY //

सहायक पंजीकार
आयकर अपीलीय अधिकरण, सूरत