

**IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, AHMEDABAD**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No. 1894/Ahd/2024
(Assessment Year: 2011-12)

Sajanben Jagaji Dabhi, C/o. Ketan H. Shah, Advocate, 512, Times Square-I, Opp. Ram Baug Bungalow, Thaltej Shilaj Road, Thaltej, Ahmedabad [PAN: BHDPD 1102 K]	..	The Income-Tax Officer, Ward 3(2)(2), Ahmedabad
(Appellant)		(Respondent)
Assessee by :		Shri Ketan Shah, Advocate & Shri Aman Shah AR
Revenue by:		Shri B.P. Srivastava, Sr DR
Date of Hearing		19.06.2025
Date of Pronouncement		24.06.2025

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT :

Delay condoned.

1. This appeal filed by the assessee is directed against the order of the Ld. Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as "Ld. CIT(A)"] dated 07.12.2023 passed under Section 250 of the Income-tax Act, 1961 [hereinafter referred to as "the Act"] relating to Assessment Year 2011-12.

2. Bare facts required for adjudication of the appeal are as under:-

2.1 The case of the assessee has been reopened u/s 148 of the Act and order u/s 144 r.w.s. 147 of the Act has been passed on 31.12.2018, making addition of amounts received on account of sale of agricultural land. The share of the assessee is only 20% of the total sale value. The Assessing Officer made addition of the entire amount of the capital gains earned instead of the share of the assessee. The case of the two co-owners has not been examined at all by the Income-tax department, though the information was available.

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- I. Date : 12.01.2012 – The assessee submitted before the ITO (Investigation)/DDIT (Investigation) that she is *“basically and agriculturist and as such my income is not taxable, so there is no such taxable income since last many years and as such I am not filing the return of income. I am not a partner/Director in any registered firm or company nor I am the proprietor of any business. I am totally illiterate..... I say that my husband was expired on 06.08.2002 and he has inherited agricultural land from mother Jadiben Juhaji Thakore (expired on 18.12.2001) and said Jadiben inherited the agricultural land from her husband who expired on 20.03.1988.”*
 - II. **Date : 21.02.2012 - The assessee filed E-return of income vide PAN BHDPD1102K**, vide acknowledgement No. 342168120210212, declaring income of Rs.80,003/-. The computation of income reveals net taxable income of Rs.80,003/- and an agricultural income of Rs.46,520/-, totaling to Rs.1,26,523/-.
 - III. Date : 31.03.2018 – Notice u/s 148 of the Act has been issued.
 - IV. Date : 16.11.2018 - The Assessing Officer directs the assessee *“if you have already filed return of income for the above assessment year (AY 2011-12), please furnish reply in this regard along with copy of acknowledgment of the return filed”*.
 - V. Date : **24.12.2018** – The Assessing Officer mentions in the reasons for reopening the assessment ***“the assessee has not filed her return of income for AY 2011-12. The assessee is an agriculturist and she is not having PAN”***.
 - VI. Date : 24.12.2018 - The assessee submitted to the ITO that the return was already filed on 23.11.2018 in response to notice u/s 148 of the Act and *“already filed the return on 21.02.2012 vide receipt No. 342168120210212 at net taxable income of Rs.80,003/-, including agricultural income of Rs.46,520/-.”*
3. From the above, it is apparent that though the assessee has filed return of income on 21.02.2012, the Assessing Officer in the reasons for reopening of the assessment

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recorded on 24.12.2018 mentions that ***“the assessee has not filed her return of income for AY 2011-12. The assessee is an agriculturist and she is not having PAN”*** which is contrary to the facts on record and vitiates the entire proceedings. This goes to prove that the Assessing Officer has not examined the primary records while recording the reasons for reopening by merely going through the report of the DDIT (Inv.). Since the reasons for reopening were inaccurately recorded, we hold that the proceedings are liable to be treated as *void ab initio*.

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

The order is pronounced in the open Court on 24.06.2025

Sd/-

**(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER**

Ahmedabad; Dated 24/06/2025

**btk

Sd/-

**(DR. B.R.R. KUMAR)
VICE-PRESIDENT**

आदेश की प्रतिलिपि □ ग्रेषित/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(E)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

True Copy

**उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad**