

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

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

I.T.A. No. 276/SRT/2025
(Assessment Year: 2011-12)

Abhay Nitin Arekar, Sarigaom Daxini Faliya, Umbergaon, Via Bhilad, Dist. Valsad, Sarogaon-396105	Vs.	Income Tax Officer, Ward-1, Vapi-396191
[PAN No.ABVPA6876C]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Sujesh C. Suratwala, C.A.
Respondent by:	Shri Ajay Uke, Sr. DR

Date of Hearing	07.07.2025
Date of Pronouncement	15.07.2025

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Centre (in short “NFAC”), Delhi vide order dated 29.11.2023 passed for A.Y. 2011-12.

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

“1. Learned AO has erred in reopening the case U/s 148 of the Act as income belong to assessee family members and not belongs to him solely and that too from Agriculture Sources which is exempted in nature hence reopening is Void ab initio.

2. Learned AO as well as CIT(A)/NFAC has erred in adding Rs. 26,13,201/- to the total income of the assessee which was from agriculture sources and exempted in nature.

3. On facts and circumstances of the case and in law, Learned AO as well as CIT(A)/NFAC erred in treating Rs. 10,00,000/- depositing cash in to Bank of Baroda,

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Sarigaon Valsad Branch bearing saving bank A/c no. 06250100008845 as taxable but the same has been out of Agriculture so addition becomes bad in law.

4. *On facts and circumstances of the case and in law, Learned AO as well as CIT(A)/NFAC erred in treating Rs. 10,00,000/- depositing cash in to Bank of Baroda, Sarigaon Valsad Branch bearing saving bank A/c no. 06250100008845 as taxable but the same has been out of cash withdrawal from the said bank a/c from time to time and theory of "**Peak Credit**" could have been applied.*

5. *On facts and circumstances of the case and in law, Learned AO as well as CIT(A)/NFAC erred in treating Rs. 15,10,820/- credited by a/c payee cheque cash in to Bank of Baroda, Sarigaon Valsad Branch bearing saving bank A/c no. 06250100008845 as taxable but the same has been out of Agriculture so addition becomes bad in law.*

6. *On facts and circumstances of the case and in law, Learned AO as well as CIT(A)/NFAC erred in treating Rs.9,981/- towards bank s/b interest which was exempted u/s 80TTA of the Act to the extent of Rs. 10,000/- in the F.Y. 2010-11 pertaining to A.Y. 2011-12.*

7. *On facts and circumstances of the case and in law, Learned AO as well as CIT(A)/NFAC erred in treating Rs.92,400/- (1,32,000 (-) 39,600 @ 30%) received from M/s **Esjay International Pvt. Ltd.** towards rent but assessee do not have any other taxable income other than "Rent" so basic threshold limit of Rs. 1,60,000/- should be allowed.*

8. *Learned CIT(A)/NFAC has erred in Ignoring the proof pertaining to Agriculture Income submitted along with appeal memo in Form No.3 5 which is against the Principal of Natural Justice and order passed by the CIT(A)/NFAC is Prejudicial and required to be quashed.*

9. *Based on Principal of Natural Justice, appellant prays for relief from tax imposed on income of other person and that too not liable to tax.*

10. *The Appellant craved leave to add, alter, delete, amend or rescind any of the above grounds of appeal as and when necessary, with the permission of ITAT."*

3. The brief facts of the case are that the assessee had not filed his return of income for the impugned year under consideration. The Assessing Officer observed that the assessee had made cash deposits of Rs. 10,00,000/- on 24.07.2010. However, the assessee failed to furnish any explanation in this regard. Further, on verification of the bank statement, the Assessing Officer observed that there are credit entries of

Rs. 15,10,820/-, for which the assessee did not provide any explanation. The Assessing Officer issued several notices of hearing, however, the assessee remained non-compliant and the assessment order was passed an ex-parte basis under Section 144 of the Act and the Assessing Officer made additions to the tune of Rs. 26,13,201/- to the income of the assessee.

4. In appeal, despite issuance of multiple notices of hearing, the assessee remained non-compliant. Accordingly, Ld. CIT(A) dismissed the appeal of the assessee with the following observations:

“5.3 I have perused the assessment order passed u/s 144 rws 147, Grounds of Appeal and SOF. The AO observed during the assessment proceedings that the appellant had deposited an amount of Rs. 10,00,000/- on 24.07.20210. It was also found that appellant had received cash entries of Rs.15,10,820/- by way of clearance or transfer. However, the appellant had not offered any explanation towards cash deposits and credit entries in his account. Therefore, the above mentioned cash deposits amounting to Rs.10,00,000/- was treated as Unexplained Money and added to the total income of the appellant. The AO has also added Rs.15,10,820/- on account of credit entries by way of clearance in the bank account. Further Bank interest amounting to Rs.9,981/- was treated as unexplained investment U/s 69A and added to total income.

5.4 During the course of appellate proceedings, sufficient opportunities were given to the appellant, however, no submissions/evidences/documents have been filed by the appellant to substantiate the grounds of appeal. The appellant was given specific opportunity to file any details filed by him before any authority physically/online earlier as no replies of the appellant are found existing in the online system. Thus, in the absence of any submission/documents, I have no material to interfere with observations and addition made by the AO. In view of the above, I upheld the decision of the AO and confirm the additions as discussed in para 5.3 above. Accordingly, all grounds of appeal are hereby dismissed.

*6. In the result, the appeal is **dismissed**. Order passed under section 250 read with section 251 of the Act.”*

5. Before us, the Counsel for the assessee submitted that looking into the quantum of additions, an opportunity of hearing may be provided to the assessee to present his case on merits. Further, the Counsel for the

assessee assured that the assessee shall promptly and diligently comply with all notices of hearing and submit all supporting evidences in support of the cash deposits / credit entries in his bank account.

6. On going through the facts of the instant case, we observe that despite having been afforded multiple opportunities of hearing, the assessee has consistently remained non-compliant and evasive. Even before us, there is a delay of 398 days in filing of the present appeal and the assessee has filed an Affidavit that this delay is purely attributable to his Chartered Accountant, who did not take up necessary follow up action. Further, the assessee submitted that the concerned Tax Officer has also attached all bank accounts of the assessee to recover the outstanding demand and it was only once his accounts were attached that the assessee came to know about the tax proceedings initiated against him. Looking in to the quantum of additions in the hands of the assessee, in the interest of justice, the matter is hereby restored to the file of Assessing Officer for de-novo consideration. However, we also observe that the assessee has remained completely non-compliant in response to notices issued by the concerned Tax Officer and it was only when his bank accounts were attached that the assessee has chosen to cause appearance and argue his case on merits. Accordingly, looking into the assessee's facts, a cost of Rs. 20,000/- is hereby directed to be imposed on the assessee (to be deposited with the Prime Minister Relief Fund) for the purposes of getting the matter set-aside to the file of Assessing Officer. We further make it clear that in case there is any further non-compliance on the part of the

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assessee, then the Assessing Officer would be at liberty to pass appropriate orders, on the basis of material available on record.

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

Order pronounced under proviso to Rule 34 of ITAT Rules, 1963 on 15/07/2025

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Ahmedabad; Dated 15/07/2025

TANMAY, Sr. PS

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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 / DR, ITAT, Surat
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, सूरत/ ITAT, Surat