



IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

AND

SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकरअपीलसं./ITA No. 56/RJT/2024

(निर्धारणवर्ष / Assessment Year: (2017-18))

(Hybrid Hearing)

Rupalkumar Kantilal Shah Harihant Kt Shah Road, Sheth Wali Street, Na Vapora, Mandvi - 370465	Vs.	CIT(A), Delhi Delhi – 110001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AOYPS3626J		
(Appellant)		(Respondent)

Appellant by

: Shri Samir Bhuptani, Ld. AR

Respondent by

: Shri Dheeraj Kumar Gupta, Ld. Sr. DR

Date of Hearing

: 15/07/2025

Date of Pronouncement

: 18/07/2025

आदेश / ORDER

PER DINESH MOHAN SINHA, JM:

Captioned appeal filed by the assessee, pertaining to Assessment Year (AY) 2017-18, is directed against the order passed by the National Faceless Appeal Centre [(in short “NFAC/Ld. CIT(A)”] vide order dated 06.12.2023, which in turn arises out of an assessment order passed by Income Tax Department / Assessing Officer under section (u/s.) 144 of the Income Tax Act, 1961 (in short “the Act”), vide order dated 27.11.2019.

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

- 1. The learned CIT(A) has erred on facts in not considering the regularity and consistency of Business even though the same has been acknowledged in the order*
- 2. The learned CIT(A) has erred on facts in not considering the evidence furnished by your appellant during the course of the proceedings.*
- 3. The learned CIT(A) has erred in law in invoking the provision of section 69A to determine and tax income in the hands of your appellant.*



4. The earned CIT(A) has erred in law in not considering the adjournment request of your appellant and consequently passing an order in violation of principal of natural justice.

5. Your appellant requests that it may be allowed to add to the Grounds of Appeal specified here, in case, during the course of the proceedings, situation merits such an addition or modification to the grounds specified here.

3. Brief facts of the case that the Appellant is an individual engaged in agency business of Gujarat Co. Op. Milk Marketing Federation Limited of Milk named Navkar Sales Agency at Mandvi Kutch. During F.Y. 2016-17, the Total Income liable to income tax was below taxable limit prescribed under the IT Act, 1961. Initially, Return of Income for the A.Y.2017-18 was not filed. Subsequently Notice u/s 142(1) dated 29/01/2018 was issued. In response to the notice u/s 142(1), Return of Income was e filed on 30/09/2019 declaring total income of Rs. 141130/- and response to notice is submitted online on 01/11/2019 having Acknowledgement No. 01101911703791. Further, Show Cause Notice (SCN) was issued u/s 144 on 25/09/2019. The Assessing Officer had made assessment u/s 144 of the act in which addition of Rs. 20,64,950/- was made out of which Rs. 18,95,420/- was considered as unexplained money u/s 69A of the act and Rs. 1,69,531/- as commission income of agency business of milk. The appellant is aggrieved with the additions made in while assessing income u/s 144 hence file this appeal u/s 246A(1)(a) of the Act.

4. That the assessee filed an appeal against the order of the Ld.AO, dated 27.11.2019 before the Ld. CIT(A). that the Ld. CIT(A) dismissed the appeal of the assessee with following remarks;

“1. During the course of appellate proceedings, the appellant was provided sufficient opportunities to submit the details and documents in respect of grounds raised at appellate stage. The replies of the appellant furnished through ITBA portal have been considered, however, not found acceptable as the appellant assessee has not furnished sale/ purchase documents of milks etc. and also no bank account have been furnished. Further, it is seen that the appellant assessee has not filed his return of Income for A.Y 2017-18 as stipulated u/s 139(1) of the I.T. Act, 1961 nor in response to the notice u/s 142(1) of the I.T. Act, 1961 during the course of assessment proceedings. The appellant assessee has stated that during the year under consideration, total sales was Rs. 1,06,37,115/- on which commission of Rs. 3,14,993.55/- was received and expenses of Rs. 1,74,342/- was incurred. In this



regard, it may not be out of place to mention here that the appellant assessee during the course of appellate proceedings has not furnished any documentary evidences in regard to commission earned no agreement has been filed and also not furnished any documents in regard to the expenses incurred for running of business.

2. After considering all the facts and circumstances of the case, I am of the view that the appellant assessee has not furnished any substantiating documentary evidences before the appellate stage to interfere in the findings of the AO and accordingly, findings made by the AO is upheld and the ground taken by the appellant assessee is hereby dismissed being devoid on merit.

1. Ground No. 4: The appellant craves leave to add, alter, amend or withdraw all or any of the grounds of appeal any time up to or during the PARTME hearing of appeal of the appellant.

hence needs no separate 1. This ground of appeal is general in nature, adjudication and accordingly dismissed.

1. In the result, the appeal of the assessee is dismissed.”

5. The assessee filed an appeal before us, against the impugned order passed by the Ld. CIT(A) dated 06.12.2023.

6. During the course of hearing, the Ld. Counsel of the assessee submitted reply with the Ld. CIT(A), however, no evidence has been filed in support of the case. That the Ld. Counsel prayed that one more opportunity to represent the case before lower authority may kindly be granted to the assessee.

7. On the contrary, the Ld. Sr. DR relied on the order of the Ld. CIT(A) stating that due opportunities were given to the assessee. However, Ld. Sr. DR has not objected to the prayer of the assessee.

8. We have heard both the parties and perused the documents available on record. We note that various notices have been issued by the Ld. CIT(A), but there was no satisfactorily compliance to the notice by the assessee. The order is silent on service of the notice upon the assessee. The Ld. CIT(A) disposed off the appeal by an ex-parte order without adjudication on merit. Thereafter, we are of the view that in the interest of justice, and considered the fact and



circumstances of the case, we consider that an opportunity should be given to the assessee to present his case before the Lower Authority. We remand the matter back to the file of Ld. AO for fresh adjudication on merit after giving due opportunity to the assessee of being heard.

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

Order pronounced in the open court on 18/07/2025.

Sd/-
(Dr. A.L. SAINI)
ACCOUNTANT MEMBER
Rajkot

(True Copy)

Sd/-
(DINESH MOHAN SINHA)
JUDICIAL MEMBER

दिनांक/ Date: 18/07/2025

Copy of the Order forwarded to

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot