

THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT

Through Hybrid Mode

**Before Ms. Suchitra Kamble, Judicial Member
And Shri Bijayananda Pruseth , Accountant Member**

**ITA No. 247/Srt/2025
Assessment Year 2016-17**

Ghanshyam Manubhai Radadiya, 87-88, Swaminarayan Nagar Society, Part-I, B/H Bombay Market, Umarwada-395010 PAN: AFAPR4038L (Appellant)	Vs	ITO, Ward-2(1)(2) Surat (Respondent)
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**Assessee by: Shri P.M. Jagasheth, A.R.
Revenue by: Shri Ajay Uke, Sr. D.R.**

Date of hearing : 15-07-2025
Date of pronouncement : 15-07-2025

आदेश/ORDER

Per Suchitra Kamble, Judicial Member:

This is an appeal filed against the order dated 28-02-2024 passed by CIT(A)/Add1/JCIT(A)-2, Mumbai for assessment year 2016-17.

2. The grounds of appeal are as under:-

"1. On the facts and in the circumstances of the case as well as the law on the subject the learned Commissioner of the Income Tax (Appeals) has erred confirming the action of the Assessing Officer in making addition of Rs. 10,00,000/-on account of

unsecured loan treated alleged unexplained Investment u/s 69 of the act.

2. On the facts and in the circumstances of the case as well as the law on the subject, the learned AO has erred in making addition of Rs. 74,281/ on account of Difference of sales turnover in 26AS and P & L account.

3. On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of the Income Tax (Appeals) has not offered adequate opportunities to hear the case and passed ex-parte order and hence the case may please be set aside and restored back to the CIT(A) or AO.

4. It is therefore prayed that the above addition may please be deleted as learned members of the tribunal may deem it proper.

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

3. The assessee is engaged in the business of embroidery job work in textile sector for the period under consideration. The return of income was filed by the assessee on 08-09-2016 determining total income Rs. 5,14,570/-. The case of the assessee was selected for scrutiny under limited scrutiny on the reason whether investment and income relating to properties are duly disclosed, whether sales turnover/receipts has been correctly offered for tax, whether contract receipts/fees have been corrected offered for tax, whether investment and income relating to properties are duly disclosed u/s. 143(2) of the Act was issued on 07-07-2017 and duly served upon the assessee on 12-07-2017. Notice u/s. 142(1) of the Act dated 14-06-2018 along with annexure was issued on the assessee. The Assessing Officer observed that the assessee had purchased along with three co-owners old tenure agriculture land at consideration of Rs. 2,18,63,300/-. As per 25% share in the said land, the assessee's separate consideration comes to Rs. 54,65,025/-. The payments made by the assessee was reflected in the purchase

deed, therefore received Rs. 7,80,000/- from sale of plot on 22-04-2025 against which the assessee has shown capital gain of Rs. 71,007/-. Notice u/s. 142(1) was issued to the assessee. The assessee filed details and the Assessing Officer observed that the assessee had taken unsecured loans from 4 parties. Show cause notice dated 15-12-2018 was issued to the assessee. In response to the show cause notice, the assessee filed submissions which was taken into consideration by the Assessing Officer and held that the assessee failed to explain unsecured loan to the tune of Rs. 10,00,000/- claimed to have been received from the lenders and added the same as unexplained investment u/s. 69 of the Act. The Assessing Officer further made addition of Rs. 74281/- in respect of difference in 26AS related to the sales turnover in the profit and loss account and shown in the ITS 26AS.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The ld. A.R. submitted that there is a delay of 302 days for which the assessee has filed condonation of delay application wherein the assessee has stated the reason due to incorrect email id shown by the assessee, the assessee could not receive the order within the stipulated time as well as notice issued by the CIT(A) was also not received by the assessee. The ld. A.R. submitted that the delay may be condoned and the matter may be remanded back to the Assessing Officer as the Assessing Officer as well as CIT(A) has not considered assessee's evidences.

6. The ld. D.R. relied upon the assessment order and the order of the CIT(A).

7. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that the reason explaining the delay appears to be genuine, hence delay of 302 days is condoned. Besides, the assessee at this juncture, submitted that certain documents were provided to the CIT(A) but the same was not taken into account. The unsecured loan taken from the parties has responded to section 133(6) notice dated 03-10-2018 and certain confirmations which are available with the assessee has to be looked into, therefore the matter is remanded back to the file of Assessing Officer for proper verification of the issues and adjudicate the same as per Income Tax Law. The appeal is partly allowed for statistical purpose.

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

Order is pronounced on 15-07-2025.

Sd/-
(Bijayananda Pruseth)
Accountant Member

Sd/-
(Suchitra Kamble)
Judicial Member

Ahmedabad : Dated 15/07/2025

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

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

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By order,

Assistant Registrar,
Income Tax Appellate Tribunal,
Surat