

IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE MS. SUCHITRA RAGHUNATH KAMBLE, JUDICIAL MEMBER &  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.862/SRT/2024

Assessment Year: (2014-15)

(Hybrid hearing)

Desh Bhushan Singhal, G-12, Ritz Square, Nr. Indoor Stadium, Ghod Dod Road, Surat - 395 007, Gujarat	Vs.	Income Tax Officer Ward-1(3)(1), Surat
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: ACIPS3627H		
(Appellant)		(Respondent)

Appellant by	Shri Ramesh Malpani, CA
Respondent by	Shri Mukesh Jain, Sr. DR
Date of Hearing	09/06/2025
Date of Pronouncement	31/07/2025

**आदेश / ORDER**

**PER BIJAYANANDA PRUSETH, AM:**

This appeal by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 ('in short, the Act') dated 15.07.2024 by the National Faceless Appeal Centre (NFAC)/Commissioner of Income-tax (Appeals) [in short "the CIT(A)"] for the assessment year (AY) 2014-15.

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

*"(1) That on the facts and in the circumstances of the case as well as in law, then appeal order passed by Id. CIT(A), NFAC, Delhi [CIT(A)] dismissing the appeal of the appellant is wrong, unjustified, invalid and bad in law as the same has been passed without considering the written submissions with vital evidences furnished by the appellant.*

*(2) That on the facts and in the circumstances of the case as well as in law, the Id. CIT(A) has erred in upholding the validity of the assessment order passed by the AO u/s 144 of the I.T. Act, 1961 (the Act), whereas it is ex facie*

*evident that the assessment order so passed is a wrong, unjustified and high pitched assessment made by ignoring and overlooking the facts and materials already on the records of Id. AO.*

*(3) That on the facts and in the circumstances of the case as well as in law, the Id. CIT(A) has erred in upholding the addition of Rs.81,40,800/- in the name of unexplained investment for purchase of flat, whereas it was clearly proved that the appellant had only 50% share in the flat so purchased and the said investment has been duly accounted for and reflected in the audited accounts of appellant. Appellant prays for deleting this apparently wrong and unjustified addition.*

*(4) That on the facts and in the circumstances of the case as well as in law, the Id. CIT(A) has erred in upholding the addition of Rs.4,90,842/- u/s 56 of the Act on account of difference between the consideration amount paid for purchase of flat and the value adopted for stamp duty purpose, whereas the difference between two is less than 10% of the stamp duty value and, therefore, such difference cannot be added u/s 56 as per the settled law. Appellant prays for deleting this addition.*

*(5) That on the facts and in the circumstances of the case as well as in law, the Id. CIT(A) has erred in upholding the huge unjustified and presumptive addition of Rs.6,22,21,229/- in the name of cessation of liability by wrongly assuming such liability to be very old, whereas it was proved that the liability was neither old nor ceased. Addition is ex-facie wrong and unjustified on facts as well as in law and contrary to the law. Ld. CITA) has erred in upholding the same without considering the submission of appellant. Appellant prays for deleting this addition.*

*(6) That the Id. CIT(A) has apparently erred in dismissing the appeal of the appellant by wrongly mentioning that the appellant has failed to respond to the remand report of AO, whereas true facts is that in the remand report, Id. AO has found the contentions of appellant in respect of above additions to be correct and the appellant has made submission in respect of the remand report pointing out this fact Ld. CIT(A) has dismissed the appeal without seeing the remand report as well as response of appellant thereto.*

*(7) That on the facts and circumstances of the case as well as in law, the interest chargers by Id. AO u/s 234B/234C of the Act in respect of above wrong and unjustified additions is also wrong and unjustified and Id. CIT(A) has erred in upholding the same by dismissing appeal of appellant without properly considering the submission and evidences furnished to him.*

*(8) Appellant craves leave to add, alter, delete or modify any ground of appeal.”*

3. Brief facts of the case are that the assessee filed his return of income for AY.2014-15 on 29.11.2014, declaring total income at Rs.4,65,270/-. The case was selected for scrutiny. Various statutory notices and show notices were issued to the assessee, but the assessee had not attended or submitted any details. The assessee had neither complied with any of the notices, nor sought any adjournment. As per AIR information, the assessee had purchased a Flat No. A-902, Sapphire Court, Vesu – Bhimrad, Surat for Rs.81,40,800/-. The Assessing Officer (in short, 'AO') issued notice u/s 133(6) to the Sub-Register, Surat and requested to furnish stamp duty valuation and purchase deed of the said property to ascertain the correctness of the purchase/sale consideration and capital gain computed by the assessee. The market value was ascertained by the Stamp Duty Authority at Rs.86,31,642/-. The assessee had not explained the source of investment, which was treated as unexplained investment u/s 69A of the Act. The AO also added the difference in purchase value of property as per stamp duty value, i.e., Rs.4,90,842/- (i.e., 86,31,642 – 81,40,800). During the assessment proceedings, the AO found that the assessee had shown large amounts of sundry creditors of Rs.6,23,35,076/-. The AO asked the assessee to explain/produce details of sundry creditors along with supporting evidence. The assessee had failed to explain the nature of transaction or furnish any confirmation from the creditors, the unexplained sundry creditors as on 31.03.2013 and net purchases during FY.2013-14, totalling to Rs.6,22,21,229/- was added as cessation of liability. The AO

assessed the total income of Rs.7,13,18,141/- against the returned income of Rs.4,65,270/-. Penalty proceedings were also initiated u/s 271(1)(c) of the Act for furnishing of inaccurate particulars of income.

4. Aggrieved by the order of AO, the assessee filed appeal before the CIT(A). The CIT(A) issued five notices of hearing on 24.02.2021, 13.01.2023, 25.05.2023, 19.06.2023 and 06.05.2024. In response to the notices, the appellant had filed submission on 30.01.2023 and 05.07.2023. The CIT(A) extracted the submission of appellant, which is at pages 3 to 11 of the appellate order. The CIT(A) forwarded submission of assessee to AO and called for a remand report, which is at pages 12 to 16 of the appellate order. The CIT(A) had forwarded the remand report to the appellant for his rejoinder. He observed that the appellant failed to respond. The CIT(A) had not accepted the submission of the appellant in view of the remand report of AO. In the result, the CIT(A) upheld the additions made by the AO and dismissed the appeal.

5. Aggrieved by the order of CIT(A), the assessee filed appeal before the Tribunal. The learned Authorized Representative (Id. AR) of the assessee filed a paper book containing 93 pages including copies of written submission made before CIT(A), copy of remand report, rejoinder of assessee to remand report, purchase deed, audited financial statements, bank statement of appellant, capital A/c of appellant in books of accounts of partnership firm M/s Ajay Vijay & Co., ITR acknowledgement, banks statement and a/c confirmation of wife

of appellant, ledger accounts of appellant (contra accounts) in the books of accounts of creditors, namely, M/s Kinjal Enterprises and M/s Shubhlaxmi Diamonds. He submitted that all the documents were submitted before the AO and CIT(A). He submitted that the CIT(A) has not considered rejoinder of the appellant (page 15 to 22 of paper book) before deciding the appeal. Hence, the order was passed in violation of the principles of natural justice. The Id. AR submitted that necessary details were submitted by the assessee and the source of investment of the house property was duly explained. He further submitted that addition on account of cessation of liability is not correct because the creditors had furnished account confirmations/contra-accounts of creditors before the AO and CIT(A). None of the liabilities had ceased during the year. Further, most of the creditors were paid during the year. The Id. AR relied upon the decisions of Hon'ble Gujarat High Court in case of PCIT vs. Matruprasad C. Pandey, (2025) 59 taxmann.com 428 and CIT vs. Nitin P. Garg, (2012) 208 Taxman 16.

6. On the other hand, learned Senior Departmental Representative (Id. Sr. DR) for the revenue supported the order of lower authorities.

7. We have heard both the parties and perused the materials available on record. We have also deliberated upon the decisions relied upon by the Id. AR. We find that the AO has passed an ex parte order u/s 144 of the Act. During the appellate proceedings, the appellant filed comprehensive written submission along with various details and evidences. The same were

forwarded by the CIT(A) to the AO for remand report. Copy of the remand report dated 09.04.2018 has been extracted in the appellate order (page 12 to 16). The CIT(A) forwarded remand report for rejoinder to the appellant. Thereafter, he has observed that the appellant failed to respond to the said notice and reminder. Hence, he confirmed the addition. The Id. AR submitted that the rejoinder to the remand report was duly submitted to the CIT(A) vide letter dated 04.07.2023, copy of which has been enclosed in the paper book at pages 15 to 22. We find that the appellant has rebutted the findings of the AO in the remand report. The appellant explained the impugned issues in the said rejoinder and also relied on various decisions including the decision of the Hon'ble jurisdictional High Court in cases of Matruprasad C. Pandey (supra) and Nitin P. Garg (supra). The CIT(A) has not considered rejoinder of the assessee and dismissed the appeal based on the assessment order and remand report. In view of the facts narrated above, we are of the view that the appellate order has been passed by not considering the rejoinder and decisions relied upon by the appellant. Therefore, the order of CIT(A) is set aside and the matter is remitted to the file of CIT(A) for re-adjudication afresh after considering the reply of the assessee by granting adequate and reasonable opportunity of hearing to the assessee. The assessee is directed to furnish further details and explanations as needed by the CIT(A) by not seeking adjournment without valid reasons.

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

Order is pronounced in accordance with Rule 34(3) of the ITAT Rules, 1963 on 31/07/2025 in the open court.

**Sd/-**  
**(SUCHITRA R. KAMBLE)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(BIJAYANANDA PRUSETH)**  
**ACCOUNTANT MEMBER**

Surat  
दिनांक/ Date: 31/07/2025  
SAMANTA

**Copy of the Order forwarded to:**

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

**// TRUE COPY //**

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Surat