

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

**BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER
& SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

I.T.A. No.44/Srt/2025
(Assessment Year: 2011-12)

Pinkesh Sureshbhai Patel, 42, Sahajdham Row House, Honey Park Road, Adajan, Surat-395009	Vs.	Assistant Commissioner of Income Tax, Circle-1(3), Surat
[PAN No.AFVPP6804R]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Rasesh Shah, CA
Respondent by:	Shri Ajay Uke, Sr. DR

Date of Hearing	20.08.2025
Date of Pronouncement	20.08.2025

ORDER

PER SUCHITRA KAMBLE - JUDICIAL MEMBER:

The appeal filed by the assessee is 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 on 21.07.2023 for A.Y. 2011-12.

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

“1. On the facts and in circumstances of the case as well as law on the subject, the learned CIT(A) has erred in passing ex-parte order without giving reasonable and sufficient opportunity of being heard.

2. On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in dismissing the appeal without passing speaking order.

3. On the facts and circumstances of the case as well as law on the subject, the learned assessing officer has erred in re-opening assessment u/s. 147 by issuing notice u/s. 148 of the I.T. Act, 1961.

4. On the facts and circumstances of the case as well as law on the subject, the learned assessing officer has erred in making an addition of Rs. 1,00,00,000/- on account of alleged unaccounted cash payments.

5. On the facts and circumstances as well as law on the subject, the learned assessing officer has erred in making addition of Rs. 2,00,000/- on account of alleged unaccounted cash receipts.

6. *It is therefore prayed that addition made by the assessing officer and confirmed by CIT(A) may please be deleted.*

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

3. The assessee filed his return of income for A.Y. 2011-12 on 29.03.2012 declaring total income of Rs. 45,01,360/-. As per information the Assessing Officer found that the assessee advanced loan of Rs. 1,00,00,000/- to Shri Ketan M Patel in cash during the year under consideration which was returned later. Accordingly, the Assessing Officer reopened the case and initiated proceedings under Section 147 of the Act. Notice under Section 148 of the Act was issued on 28.03.2018 and in response to the said notice the assessee filed reply dated 16.04.2018 stating therein to treat the original return of income filed in response to the said notice. Subsequently, the statutory notices under Section 143(2) and 142(1) of the Act was issued and the assessee filed reply dated 12.12.2018 thereby stating that he had not given any loan to Ketan M Patel. The assessee issued show-cause notice dated 14.12.2018 which was replied by the assessee vide letter dated 21.12.2018. After taking cognizance of the said letter / reply the Assessing Officer observed that from the seized material found during the course of search action which was carried out at the premises of Shri Ketan M Patel it was found that in the details of loan that the Ketan M Patel has taken a loan from Shri Pinkesh Patel and subsequently rebut the same. Since the assessee has not repeated this fact the Assessing Officer made addition of Rs. 1,02,00,000/- thereby treating the same as unaccounted cash payments (interest of Rs. 2,00,000/- on this loan at 2% treating the same as unaccounted receipts).

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. AR submitted that the CIT(A) has passed ex-parte order without giving reasonable and sufficient opportunity to the assessee. The Ld. AR submitted that the CIT(A) has not issued any notice to the email address given in under the column of Form 35. Therefore, the Ld. AR requested that the matter may be remanded back to the file of CIT(A) for proper adjudication of the issues on merit and the assessee be given opportunity of hearing.

6. The Ld. DR relied upon the assessment order and the order of the CIT(A).

7. We have heard both the parties and perused the materials available on record. It is pertinent to note that the CIT(A) has not commented on the merits of the case and simply dismissed the appeal ex-parte. Besides this the notices for hearing was not issued at the proper email address thus, the CIT(A) has not given the opportunity of hearing to the assessee. Hence, it will be appropriate to remand back this matter to the file of the CIT(A) for proper adjudication of the issues contested by the assessee therein after giving opportunity of hearing to the assessee. The CIT(A) thereafter adjudicate the issue as per Income Tax Law.

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

Order pronounced under proviso to Rule 34 of ITAT Rules, 1963 on 20/08/2025

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Ahmedabad; Dated 20/08/2025

TANMAY, Sr. PS

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

TRUE COPY

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