

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, AHMEDABAD**

**BEFORE DR. BRR KUMAR, VICE PRESIDENT &
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

I.T.A. No. 825/Ahd/2025
(Assessment Year: 2013-14)

Shri Dharmendrasinh Nirmalsinh Gohil, 103, Basement Hans Complex, Sanskar Mandal, Bhavnagar, Gujarat-364002	Vs.	Income Tax Officer, Ward-1(9), Bhavnagar
[PAN No.AENPG6460P]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Mohit Balani, A.R.
Respondent by :	Shri Abhijit, Sr. DR

Date of Hearing	09.07.2025
Date of Pronouncement	25.08.2025

O R D E R

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 17.01.2025 for A.Y. 2013-14.

2. There is a delay of 21 days in filing of the present appeal the same is condoned. As the assessee through his Affidavit dated 09.07.2025 has given the genuine reason for the delay. Hence, the delay is condoned.

3. The grounds of appeal raised by the assessee are as under:

“1. Learned CIT(A) erred in law and on facts of the case in passing the impugned order ex-parte and without deciding it on merits.

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2. *The learned Commissioner of Income-tax (Appeals) has erred in law and on facts in failing to call for the assessment records from the Assessing Officer, despite being vested with the statutory powers to do so under the Income-tax Act. This omission has resulted in an adjudication without complete appreciation of the material on record.*

3. *Learned CIT(A) has erred in law and on facts of the case in confirming the action of learned AO in assuming the jurisdiction u/s 147 of the Act.*

4. *The Learned CIT(A) erred in law and on facts of the case by failing to consider that the Ld. AO did not adhere to the prescribed procedure for faceless assessment under the provisions of Section 144B of the Act. Consequently, the impugned order is non-est in the eyes of law and deserves to be annulled.*

5. *Learned CIT(A) has erred in law and on facts of the case in confirming the action of learned AO in making an addition of Rs.2,72,41,072/- u/s on account of alleged accommodation entries from M/s Harsh Enterprise.*

6. *Learned CIT(A) has erred in law and on facts of the case in confirming the action of learned AO in not allowing the set off u/s 70-71 of the Act.*

7. *The Learned CIT(A) erred in law by failing to consider the material available on record.*

8. *The Ld. CIT (Appeal) has erred in law by passing the order for levied of interest u/s 234A,234B,234C,234D of the act.*

9. *The Ld. CIT(Appeal) has erred in law and on facts of the case in initiating penalty u/s 271(1)(c) of the Act.*

10. *Your appellant craves liberty to add, to alter, to modify, to amend or to withdraw / delete any of the grounds of appeal at any time, on or before the hearing of appeal."*

4. The assessee is an individual and filed return of income declaring total income of Rs. 11,03,600/- for A.Y. 2013-14. A search action under Section 132 of the Income Tax Act, 1961 was carried out in the case of M/s. Harsh Enterprise. The proprietor, Shri Divyang J Shah of M/s. Kiran Trading was engaged in providing accommodation entry with other entities. One of the companies named M/s. Kiran Trading was also in control of Shri Divyang J Shah. The assessee was beneficiary who have availed the accommodation entry of Rs. 2,72,41,072/- from the said companies as mentioned by the

Assessing Officer in the assessment order. Notice under Section 148 of the Act was issued on 29.03.2021 and subsequently notice under Section 143(2) of the Act was issued on 13.01.2022. Further, notice under Section 142(1) of the Act was issued on 11.03.2022. Since the assessee has not filed any detail the Assessing Officer passed assessment order under Section 147 r.w.s. 144B of the Act. And assessed the income at Rs. 2,83,44,672/-, thereby making addition of Rs. 2,72,41,072/- as unexplained income under Section 68 of the Act.

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

6. At the time of hearing Ld. AR submitted that the CIT(A) has passed ex-parte order without deciding the matter on merit. Therefore, Ld. AR requested that the matter may be remanded back to the file of the CIT(A) for proper adjudication of the issues on merits.

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

8. We have heard the both the parties and perused all the relevant materials available on record.

9. It is pertinent to note that the CIT(A) has passed ex-parte order without taking cognizance of the assessee's adjournment application filed in response to notice dated 26.09.2024. Since the CIT(A) has not decided the appeal on merit it will be appropriate to remand back this matter to the file of CIT(A) for proper adjudication of the issues on merits after taking

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cognizance of the additional evidences filed by the assessee. Needless to say, the assessee be given opportunity of hearing by following principles of natural justice.

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

This Order pronounced in Open Court on

25/08/2025

Sd/-

(DR. BRR KUMAR)
VICE PRESIDENT

Ahmedabad; Dated 25/08/2025

TANMAY, Sr. PS

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, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद/ ITAT, Ahmedabad