

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.925/SRT/2024

Assessment Year: (2013-14)

(Hybrid hearing)

Umesh Ramjibhai Pavasiya, 102, Vallabh Nagar Society, Varachha Road, Opp – Baroda Prestige, Surat - 395006	Vs.	ITO, Ward -3(3)(5), Surat
स्थायी लेखासं./जीआइआरसं./PAN/GIR No: AFJPP2768Q		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Appellant by	Shri Sapnesh Sheth, CA
Respondent by	Shri Ajay Uke, Sr. DR
Date of Hearing	17/07/2025
Date of Pronouncement	18/08/2025

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 12.08.2024, by the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi [in short 'CIT(A)'] for the Assessment Year (AY) 2013-14.

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

"1. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income Tax (Appeals), NFAC has erred in passing ex-parte order without giving reasonable opportunity of hearing to assessee & giving finding on merits of the case.

2. On the facts and circumstances of the case as well as law on the subject, the learned commissioner of Income Tax (Appeals), NFAC has erred in

confirming the action of assessing officer in passing ex-parte order u/s 144 of the I.T. Act, 1961 without providing reasonable opportunity of hearing to assessee.

3. On the facts and circumstances of the case as well as law on the subject, the learned commissioner of Income Tax (Appeals), NFAC has erred in confirming the action of assessing officer in reopening assessment 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 commissioner of Income Tax (Appeals), NFAC has erred in confirming the action of assessing officer in making addition Rs.36,76,376/- u/s 68 as unexplained cash credit.

5. It is therefore prayed that above addition made by assessing officer and confirmed by Commissioner of Income-tax (Appeals) may please be deleted.

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

3. Brief facts of the case are that the assessee had not filed his original return of income for AY 2013-14. On the basis of information received from DDIT (Inv.) – III, Surat on 29.03.2016, it was found that the assessee had deposited cash of Rs.32,57,700/- in his bank account maintained with Kotak Mahindra Bank. Subsequently, the case was re-opened by issuing notice u/s 148 of the Act on 26.03.2018. In response, the assessee had filed his return of income on 20.10.2018, declaring total income of Rs.2,40,000/- u/s 44AD on turnover of Rs.29,80,000/-. Various notices were issued by the Assessing Officer (in short, 'AO'), but the assessee neither attended nor submitted the requisite details. The AO passed an order u/s 144 of the Act by making an addition of Rs.36,76,376/- u/s 68 of the Act on account of unexplained cash credits. The AO determined the total income of Rs.39,16,380/- against the

returned income of Rs.36,76,376/-. Separate penalty proceedings u/s 271(1)(c), 271(1)(b) and 271F of the Act were initiated by the AO.

4. Aggrieved by the order of AO, the assessee filed this appeal before the CIT(A). The CIT(A) issued 4 notices fixing the hearing on 18.02.2021, 03.05.2024, 07.06.2024 and 08.07.2024. There was effectively no compliance to any of the notices issued by CIT(A). He has also reproduced Statement of Facts and grounds of appeal of the appellant, which is at pages 2 to 4 of the appellate order. The decision of the CIT(A) is at para 5.1 to 5.4 of the appellate order. Due to repeated non-compliance by assessee, the CIT(A) relied upon the decisions in cases of CIT vs. Multiplan India Ltd., 38 ITD 320 (Del.), Estate of Late Tukojirao Holkar vs. CWT, 223 ITR 480 (MP), New Diwan Oil Mills vs. CIT, (2008) 296 ITR 495 (P&H), CIT vs. B. N. Bhattacharya, 118 ITR 461 (SC), M/s Bindra Warehousing Corporation vs. ITO, ITA Nos.201 to 203/Jab/2015 and observed that assessee is not interested in pursuing the appeal. Hence, the CIT(A) dismissed the appeal for non-submission and non-pursuing.

5. Aggrieved by the order of CIT(A), the assessee filed appeal before the Tribunal. The learned Authorized Representative (ld. AR) of the assessee submitted that both lower authorities have passed ex parte orders without hearing the appellant on merit. He also submitted that the order of the CIT(A) is also not as per the mandate u/s 250(6) of the Act. He submitted that the non-compliance of the notices was not intentional and

deliberate on the part of the appellant. The appellant is ready to submit all details and evidences in support of the grounds raised by him before CIT(A). He requested that in the interest of justice, one more opportunity may be given to the appellant to plead his case on merit.

6. On the other hand, learned Senior Departmental Representative (Id. Sr. DR) of the revenue supported the order of lower authorities. He submitted that the AO and CIT(A) has passed the order due to non-compliance by the appellant in respect of the grounds taken up in the appeal. He would, however, have no objection if the matter is restored to file of AO subject to the cost imposed on assessee.

7. We have heard both the parties and perused the material available on record. The AO made additions of Rs.36,76,376/- u/s 68 of the Act towards unexplained cash credit in the bank account. The CIT(A) has dismissed appeal because the appellant did not file supporting evidence for the grounds raised in the appeal. The Id. AR submitted that the AO passed an ex parte order, which was confirmed by the CIT(A) in absence of details and evidences. He submitted that non-furnishing of relevant details by the appellant was not deliberate but due to circumstances beyond control of the appellant. The appellant is ready to submit all details in support of the grounds raised by him. He, therefore, requested that one more opportunity may be given to the appellant to plead his case on merit. After considering the contentions of both parties and perusing the order of lower authorities,

we find that the CIT(A) has not passed an order as per the mandate of section 250(6) of the Act and dismissed the appeal of assessee only on the ground of non-compliance. The order passed by the CIT(A) is clearly in violation of the express provisions of section 250(6) of the Act, which provides that the appellate orders of the CIT(A) are to state the points arising in the appeal, the decision of the authority thereon and the reasons for such decisions. The underlying rationale of the provision is that such orders are subject to further appeal to the appellate Tribunal. Speaking order would obviously enable a party to know precise points decided in his favour or against him. Considering the facts and circumstances of the case and the fact that the assessment order was confirmed by CIT(A) in ex parte order, we are of the considered view that the assessee deserves one more opportunity to contest his case on merit. Accordingly, in the interests of justice, we set aside the order of CIT(A) subject to payment of cost of Rs.10,000/- (Rupees ten thousand only) by the assessee to the credit of the **'District Legal Services Authority, Surat'** within 3 weeks from receipt of this order. Subject to payment of above cost, we set aside the order of CIT(A) and remit the matter back to the file of AO for fresh assessment in accordance with law, after granting adequate opportunity of hearing to the assessee. The assessee is directed to be more vigilant and diligent and to furnish all the details and explanations as needed by the AO by not seeking adjournment without valid reasons.

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

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 18/08/2025.

Sd/-
(SUCHITRA R. KAMBLE)
JUDICIAL MEMBER

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Surat

दिनांक/ Date: 18/08/2025

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