

**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.210/SRT/2025

Assessment Year: (2011-12)

(Hybrid Hearing)

Kevalram Lalaram Chaudhari, 275, Bhagirath Nagar – 2, Anjani Road, Varachha Road, Surat – 395006	Vs.	ITO, Ward – 3(3)(3), Surat
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AHRPC3926F		
(Appellant)		(Respondent)

Appellant by	Shri P. M. Jagasheth, CA
Respondent by	Shri Ajay Uke, Sr. DR
Date of Hearing	16/07/2025
Date of Pronouncement	22/07/2025

आदेश / O R D E R

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 02.01.2025, by the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi [in short 'CIT(A)'] for the Assessment Year (AY) 2011-12.

2. Grounds of appeal raised by the assessee 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 in confirming the action of the Assessing Officer in reopening the assessment u/s 147 of the Act and notice u/s. 148 of the Act was issued.

2. 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 in confirming the action of the Assessing Officer in making addition

of Rs.55,62,000/- on account of cash deposit in bank accounts treated as alleged unexplained income from undisclosed sources.

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 and passed ex-parte order and, hence, the case may please be set aside and restored back to the CIT(A) or AO for sake of the interest of natural justice.

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. Brief facts of the case are that the assessee had not filed his return of income u/s 139(1) of the Act. After recording the reasons, the case was re-opened with prior approval of competent authority by issuing notice u/s 148 of the Act. Various statutory and show notices were issued to the assessee through ITBA e-proceedings portal. However, the assessee failed to reply in response to the said notices. Such details are at para 3 and 4 of the assessment order. The Assessing Officer (in short, 'AO') observed that the assessee has deliberately avoided to make compliance by skipping the proceedings before him. Therefore, the AO passed an order u/s 144 of the Act based on the facts and material available on record. The assessee had deposited total cash of Rs.55,62,000/- in his saving bank accounts, maintained with IDBI Bank Ltd. during the AY.2011-12. The assessee had neither filed his return of income u/s 139(1) of the Act nor respond to the notice issued u/s 148 of the Act. Therefore, the source of cash deposit in the bank accounts remained unexplained. The AO assessed the total

income at Rs.55,62,000/-. Penalty proceedings u/s 271(1)(c) r.w.s. 274 and 271F r.w.s. 274 of the Act were also initiated by the AO.

4. Aggrieved by the order of AO, the assessee filed this appeal before the CIT(A). He issued 4 notices fixing the hearing on 22.01.2021, 27.06.2023, 05.07.2023, 10.11.2023, 12.11.2024 and 28.11.2024. All the notices were duly served electronically on the registered e-mail id of the appellant and the status of the notices was shown as 'Delivered' in the ITBA portal. The CIT(A) observed that the appellant was not interested to pursue his appeal, and he had no defence against the additions made by AO. Since adequate opportunities were given to him, he cannot allege contravention of principles of natural justice as held in case of P. N. Balasubramaniam ,112 ITR 512 (AP). He also relied upon the decisions in cases of: (i) CIT vs. B. N. Bhattacharya, 118 ITR 461 (SC), (ii) Estate of Late Tukoji Rao Holkar vs. CWT, 223 ITR 480 (MP) and observed that assessee is not interested in pursuing the appeal. Thereafter, the CIT(A) decided the appeal on the basis of material available on record. He observed that no additional evidence was furnished by the appellant to substantiate his claim. Before CIT(A), the appellant contended that cash deposits were made not only from cash invoices but also from withdrawals. In absence of documentary evidence, the CIT(A) upheld the addition made by 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 submitted that the CIT(A) passed the order u/s 250 of the Act on 02.01.2025 without hearing the assessee in violation of the principles of natural justice. He also submitted that since the order was passed u/s 144 of the Act, the CIT(A) should have set aside the assessment order back to AO u/s 251 of the Act. Since, adequate opportunity of hearing was not given to the assessee; therefore, Id. AR contended that one more opportunity should be given to the assessee to plead his case before the AO. He undertakes to be vigilant and furnish explanation and details expeditiously.

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 adequate opportunities were given to the assessee during the assessment proceedings as well as appellate proceedings. The assessee has been negligent and non-cooperative due to which the addition was confirmed by CIT(A). However, he submitted that appropriate cost may be imposed upon the assessee, if the matter is restored to AO.

7. We have heard both the parties and perused the material available on record. The AO made additions of Rs.55,62,000/- towards unexplained cash deposits in the bank accounts maintained with IDBI Bank Ltd. 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. 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. In view of 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.5,000/- (Rupees five thousand only) to the credit of the **'Prime Minister National Relief Fund'** within three 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 adjudication 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. With these directions, the grounds of appeal raised by the assessee are allowed for statistical purposes.

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

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 22/07/2025.

Sd/-
(SUCHITRA R. KAMBLE)
JUDICIAL MEMBER

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Surat

दिनांक/ Date: 22/07/2025

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

By Order

// TRUE COPY //

Assistant Registrar/Sr. PS/PS
ITAT, Surat