



IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT
BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
AND
SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकर अपील सं./ITA Nos. 307 to 309/RJT/2025
(Assessment Year: 2018-19 & 2019-20)
(Hybrid Hearing)

Jai Kishan Shahani, SBX 45 Ward 2A, old 15 A Wadi, Adipur-370205 Dist-Kutch (Gujarat)	Vs.	The ITO, Ward-1 Gandhidham-Kutchh
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: BIRPS0954H		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारितकीओरसे/Assessee by

: Smt. Ashta Maniyar, Ld. AR

राजस्वकीओरसे/Revenue by

: Shri Abhimanyu Singh Yadav, Sr. DR

सुनवाईकीतारीख/ Date of Hearing

: 20/08/2025

घोषणाकीतारीख/Date of Pronouncement

: 29/08/2025

आदेश/ORDER

Per, Dr. A. L. Saini, AM:

Captioned three appeals filed by the assessee, pertaining to Assessment Order (AY) 2018-19 & 2019-20, are directed against the separate orders passed by the Commissioner of Income Tax(Appeals) (in short "Ld. CIT(A)", which in turn arise out of two separate assessment orders passed by the Assessing Officer u/s 147 r.w.s 144 of the Act, and a penalty order passed by the assessing officer, u/s 271AAC(1) of the Income Tax Act, 1961.



2. At the outset, Id. Counsel for the assessee submitted that all these appeals pertained to the same assessee, however, for different assessment years. Since, the issues involved in all the appeals are common and identical; therefore, these appeals have been heard together and are being disposed of by this consolidated order.

3. The learned Counsel for the assessee submitted before the Bench that assessee`s appeal in ITA No. 307/Rjt/2025, pertains to assessment year (A.Y.) 2018-19, wherein the assessing officer (AO) framed the assessment order u/s. 147 r.w.s. 144 of the Act, as the assessee neither appeared before the assessing officer (A.O.) nor before the CIT(A). This appeal pertains to quantum proceedings.

4. The learned Counsel for the assessee further submitted before the Bench that assessee`s appeal in ITA No. 309/Rjt/2025 pertains to assessment year (A.Y.) 2019-20 wherein the assessing officer (AO) framed the assessment order u/s. 147 r.w.s. 144 of the Act, as the assessee neither appeared before the assessing officer (A.O.) nor before the CIT(A). This appeal pertains to quantum proceedings.

5. The learned Counsel for the assessee also submitted before the Bench that assessee`s appeal in ITA No. 308/Rjt/2025, pertains to penalty levied by the assessing officer (A.O.) u/s. 271AAC(1) of the Income Tax Act, which pertains to assessment year (A.Y.) 2018-19. Since the appeal pertaining to A.Y. 2018-19 (quantum appeal of the assessee) in ITA No.307/RJT/2025, is to be remitted back to the file of the assessing officer (AO), therefore



penalty for assessment year (A.Y.) 2018-19 in ITA No. 308/Rjt/2025, may also be restored back to the file of assessing officer (A.O.).

6. The Ld. Counsel for the assessee therefore submitted about these three appeals that because of the mistake of the advocate of the assessee, the learned CIT(A) passed the *ex- party* order, as the advocate of the assessee has neither appeared before the assessing officer (A.O.) nor before the CIT(A). However, the advocate of the assessee, before the ld. CIT(A), during the appellate proceedings, sought adjournment but could not file the relevant details and documents. Therefore, the Ld. Counsel for the assessee stated that now the assessee wants to submit the details and documents and evidences to prove his claim before the lower authorities and assessee wants to file the additional evidences, therefore these appeals of the same assessee should be remitted back to the file of the assessing officer (A.O.) for fresh adjudication.

7. On the other hand, the ld. D.R. for the Revenue submitted that the assessee was negligent before the A.O. as well as before the CIT(A), therefore, the assessee had wasted the resources and time of the lower authorities. Hence, cost of Rs. 15000/- may be imposed on the assessee, on account of non-compliance, attitude of the assessee.

8. We have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the ld CIT(A) and other materials brought on record. We note that in the assessee's case under consideration, the assessment was carried



out u/s 147 r.w.s. 147 of the Act and the impugned orders passed by the Id. CIT(A), are an *ex parte* orders and non-speaking orders, therefore, we do not wish to make any comments on the merits of the grounds raised by the assessee. We note that assessee has participated in the appellate proceedings and this is evident from the order of the Id. CIT(A). On account of non-compliance attitude of the assessee, we impose a cost of Rs. 10,000/- which is to be deposited in the Prime Minister National Relief fund.

9. We note that the Hon'ble Supreme Court in M.S.Gill vs The Chief Election Commission 1978 AIR SC 851 held "The dichotomy between administrative and quasi-judicial function vis-à-vis the doctrine of natural justice is presumably obsolescent after Kraipak (A.K. Kraipak vs UOI AIR 1970 SC 150) which makes the water-shed in the application of natural justice to administrative proceedings. The rules of natural justice are rooted in all legal systems and are not any new theology. They are manifested in the twin principles of *nemo judex in parte sua* (no person shall be a judge in his own case) and *audi alterem partem* (the right to be heard). It has been pointed out that the aim of natural justice is to secure justice.

10. Considering the above facts, we note that assessee has not given sufficient opportunity of being heard and could not plead his case successfully before the Id. CIT(A). We note that the Id. CIT(A) did not discuss the assessee's case on merits based on the material available before him hence it is a violation of principle of natural justice. We note that it is settled law that principles of natural justice and fair play require that the affected party is granted sufficient opportunity of being heard to contest his case. Therefore, without delving much deeper into the merits of the case, in



the interest of justice, we restore the matter back to the file of assessing officer for de novo adjudication and pass a speaking order after affording sufficient opportunity of being heard to the assessee, who in turn, is also directed to contest his stand forthwith. Therefore, we deem it fit and proper to set aside the order of the Id. CIT(A) and remit the matter back to the file of the assessing officer to adjudicate the issue afresh on merits. For statistical purposes, these two appeals(in ITA No. 307 and 309-quantum appeals) of the assessee are treated, as allowed.

11. Since we have remitted the quantum appeal of the assessee in 307/Ahd/2025 for A.Y. 2018-19 before AO, therefore, penalty appeal pertaining to A.Y. 2018-19 u/s. 271AAC(1) of the Act, in ITA No. 308/Rjt/2025, becomes infructuous and penalty imposed by the A.O. does not have any leg to stand. However, since we have remitted the quantum appeal in ITA No. 307/Rjt/2025 to the file of A.O. therefore the A.O. may initiate penalty proceedings, if any, in de-novo assessment proceedings, in accordance with law.

12. In the result, all three appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open court on 29-08-2025

Sd/-
(DINESH MOHAN SINHA)
JUDICIAL MEMBER

Sd/-
(A. L. SAINI)
ACCOUNTANT MEMBER

Rajkot

Dated: 29/08/2025 *True Copy*

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-



1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Rajkot
6. Guard file.

By order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot