

**आयकर अपीलीय अधिकरण, सूरत न्यायपीठ, सूरत**  
IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER AND  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER  
आयकर अपील सं./ITA Nos. **567 & 674/SRT/2023** (AYs 2015-16 & 2016-17)  
(Hybrid hearing)

Junaid Suleman Motara 27, Vohra Wad Telada Vesma, Navsari-396 445 [PAN : BXUPM 1984 R]	बनाम Vs	Assistant Commissioner of Income-tax, OSD, Ward-3, Navsasi Ranga Puja Complex, 1 <sup>st</sup> Floor, Junathana Navsari-396 445  Income Tax Officer, Ward-3, Income Tax Office, Charpool, Awabaug, Navsari-396 445
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से /Assessee by	Shri P.M. Jagasheth, CA
राजस्व की ओर से /Revenue by	Shri Ajay Uke– Sr-DR
सुनवाई की तारीख/Date of hearing	24.07.2025
उद्घोषणा की तारीख/Date of pronouncement	12.08.2025

**Order under section 254(1) of Income Tax Act**

**PER DINESH MOHAN SINHA, JUDICIAL MEMBER:**

1. These two appeals by assessee are directed against the separate orders of National Faceless Appeal Centre (NFAC), Delhi/Commissioner of Income-tax (Appeal) [for short, "Ld. CIT(A)"] dated 16.06.2023 and 22.06.2023 for the assessment years (AY) 2015-16 and 2016-17, which in turn arises out of assessment orders passed by the Assessing Officer (in short, "AO") under section 143(3) of Income Tax Act, 1961 ('the Act') on 21.12.2017 and 21.11.2018.

2. The grounds of appeal raised by the assessee in ITA No.567/SRT/2023 for AY 2015-16 are as follows:-

*"1. Appellant craves leave to add or amend any grounds of appeal, I have asked for 15 days time in reply to my notice u/s 250 but due to earlier negligence by our consultant we are not be able to raise additional grounds, though we have already make ready all the details pursuant to our case. Further it is worth to note that your appellant has been carryingout agricultural activity in our family owned land and land of others ad measuring approx. 200 binghas and due to his affiliation and goodwill in the Muslim community, he has been carrying out agricultural activities on large scale in land owned by others as well. Me Junaid Motara and my father Mr. Suleman Yusuf Motara together doing agriculture activity since my born and my father and our forefather were doing agriculture activities since so many years. Complete details as well as proofs are ready with us, all the relevant documents available with us."*

3. Grounds of appeal ITA No.674/SRT/2023 for AY 2016-17 raised bythe assessee are as under:

*"1. Ground One: Incorrect assessment of agricultural income as undisclosed income: The income Tax Authority has erred in law and in fact by adding the agricultural income declared by the appellant as undisclosed income without providing sufficient and cogent reasons for such action. The agricultural income in question was duly reported in the income tax return for the assessment year and supported by relevant documents. During the course assessment, the issued the notice u/s 133(6) of the Act to Talati cum Mantri to the village of Alipore, Ognisa and Khund calling for the land owned by the appellant on which survey was made by the Inspector. However, in actual appellant holding more land than inspector has verified and talati has mentioned, the learned AO has only rely on the document submitted by the Talati and report of the Inspector. The learned AO has also mentioned that the land was jointly held by the appellant. In actual most of the work on that land was done by the appellant hence all the agricultural income was booked in him. The appellant has held the land other than land mentioned by AO, which was not considered by AO. The learned AO has ignored the other land held by appellant and directly agriculture income."*

4. At the outset, the appeal ITA No.567/Srt/2023 for AY 2015-16 filed late by 1 day and appeal ITA No.674//SRT/2023 for AY 2016-17 late by 46 days. The Ld. AR of the assessee has filed an application for condonation of delay, supported by affidavit. The relevant part of application for delay is as under:

*"I would like to submit that I have filed an appeal under section 253(1) of the Income Tax Act, 1961 on 06.10.2023 vide ITA 674/SRT/2023 against the order of the*

*Commissioner (Appeals) relating to A.Y 2016-17, which was made on 16.06.2023 and uploaded on the Income Tax e-filing portal under e-proceedings. Although this appeal should have been filed in the office of the Tribunal on or before sixty days from the date of communication of the order, it could not be filed in time because I was unaware of the online income tax proceedings. My authorized Representative (AR) was handling my income tax matters. At the time of filing of appeal before the Hon. CIT(A), the e-mail was mentioned in Form-35 i./e./, [valsad@jvco.in](mailto:valsad@jvco.in). But the hearing notices were issued email ID junaid [motara@yahoo.com](mailto:motara@yahoo.com), hence I was unable to check my email during the course of the appeal proceedings. Consequently, I could not respond to the hearing notice and the order of the CIT(a) was passed ex-parte. When, I visited to my Authorized Representative office and He checked the e-filing portal and found that the order of CIT(a), NFAC, Delhi, had been passed uploaded on the Income Tax e-filing portal on 22.06.2023. Thereafter, I had appointed new 'AR' for filing of appeal. We then downloaded the CIT(A) order and appeal Form-36 prepared along with grounds of appeal and filed the physically appeal on 06.10.2023 before the Hon'ble ITAT, Surat, against the order of the Hon'ble CIT(a), NFAC, Delhi. As a result, the appeal was delayed by 46 days, and we were unable to make the necessary arrangements to file the appeal before the Hon'ble ITAT, Surat, within the prescribed time."*

4.1 Ld. AR submitted that delay in filing both the appeals are not deliberate not due to negligence on the part of the assessee. The delay caused due to unawareness of online income tax proceedings, which was genuine and bona fide reasons and circumstances beyond the control of the assessee. In the interest of justice and equity delay may kindly be condoned. On the contrary, the Ld. Sr-DR for the Revenue has not opposed the prayer of the assessee.

4.2 We note that the delay in filing the appeal before this Tribunal was due to *bona fide* reasons that the assessee was unawareness of income tax online proceedings. After considering the reasons explained by the Ld.AR in the interest of justice we take a judicious view and, we condone the delay in filing both the appeals and heard on merit.

5. Brief facts of the case the appellant is engaged in the business of quarry, which is carried appellant is engaged in the agriculture activities and earned on in the name of Juinad Suleman Motora Quarry. Further the agriculture income from it. The

appellant has regularly filed his return of income and for the AY 2015-16 he had filed his ROI electronically on 31.03.2017 returning income of Rs.2,68,630/-, wherein he had offered income and net agriculture income of Rs.72,4,146/-. After processing return u/s 143(1) of the Act, the appellant's case was taken up for limited scrutiny assessment through CASS by issuing notice u/s 143(2) of the Act dated 16.09.2017. During the year under consideration, the appellant engaged in the agriculture activities and earned the agriculture income of Rs.72,44,146/-, for which AO has asked to prove genuineness of agriculture income. In response to the notice the appellant submitted the copy of some 7/12 and 8A and bills of the agriculture income and mention other will be provided later on. During the course assessment, the AO issued the notice u/s 133(6) of the Act to Talati cum Mantri to the village of Alipore, Ognisa and Khund calling for the land owned by the appellant on which survey was made by the Inspector. The AO has also mentioned that the land was jointly held by the appellant. In actual most of the work on that land was done by the appellant hence all the agriculture income was booked in him. The appellant has held the land other than land mentioned by AO, which was not considered by AO. The AO has ignored the other land held by appellant and directly agriculture income. However, ignoring appellant's submission and the facts explained by appellant and his AR, the AO added entire agriculture income of Rs.72,44,146/- as appellants unexplained source. The AO assessed income of assessee at Rs.75,12,761/- and initiated penalty proceedings u/s 271(1)(c) of the Act.

6. That the appellant filed an appeal against the order of AO dated 21.11.2018 and 21.12.2017 before CIT(A). The appeal was dismissed with following observation:

*"In view of the facts and circumstances of the case, considering the submissions of the appellant and the appellants failure to offer any explanation for the sources of*

*cash deposits in the bank account before the AO or before the undersigned during appeal proceedings even after affording eight times the opportunity to represent his case with documentary evidence and proof to support the grounds of appeal, all the ground raised by the appellant deserves to be rejected while upholding the action of the AO in making addition to the total.*

*5.2 GROUND No.2*

*This ground of appeal relates to the initiation of penalty proceedings under section 271(1)© of the Act.*

- (i) During assessment proceedings, the AO initiated penalty proceedings under section 271(1)© of the Act. This is objected to in the appeal.*
- (ii) The appellant stated that the AO erred in initiation of penalty proceedings.*
- (iii) This ground of the appellant is premature to consider as this is only an initiation of proceedings and did not reach finality. Hence, this ground is treated as rejected being baseless and ill founded.*

*5.3 GROUND No.3:*

*(i) The appellant did not raise additional grounds nor modified its earlier grounds. Therefore, technically, this ground of the appellant is rejected.*

*6. All the grounds raised by the appellant are rejected and in the result, the appeal is dismissed."*

7. That the assessee filed an appeal against the impugned orders dated 22.06.2023 and 16.06.2023 before the tribunal.

8. During the course of hearing, the Ld. AR of the assessee stated that the assessee was unaware about the income tax online proceedings because the notices of hearing issued by the Ld. CIT(A) is sent to [junaid\\_motara@yahoo.com](mailto:junaid_motara@yahoo.com), the assessee unable to check the email during the course of proceedings, after the Ld.AR checked the e-file portal then they found that the Ld.CIT(A) has passed ex-parte order. Therefore, the Ld. AR prayed that one more opportunity kindly be given to the assessee for fresh adjudication.

9. On the other hand, Ld. Sr-DR for the Revenue has relied upon the order of Ld.CIT(A) and not objected to the prayer of the Ld.AR for remit back the matter to the file of AO for fresh assessment.

10. We have heard both the parties and perused the documents available on record. We note that several notices for hearing issued by Ld.CIT(A) in response to

the notice, the assessee did not file any details to the Ld. CIT(A) because of the assessee was unaware about the online proceedings. Thereafter, we are of the view that an opportunity should be given to the assessee to present his case before the lower authorities. We note that AO has also passed order us/s 143(3) of the Act. But the assessee could not prove the agricultural income. After considering above facts and circumstances, we set aside both the orders of Ld.CIT(A) and remand both these matters back to the file of AO for a fresh adjudication after giving opportunity of hearing to the assessee, uninfluenced by his earlier order in any manner. The assessee is also directed to ensure participation in the hearings as may be fixed by AO and do not seek unnecessary adjournments failing which the AO shall be at liberty to pass appropriate order in accordance with law.

11. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced in under proviso to Rule 34 of the ITAT Rules, 1963 on 12/08/2025.

Sd/-  
(BIJAYANANDA PRUSETH)  
लेखा सदस्य/Accountant Member  
सूरत / Surat Dated: 12/08/2025

Sd/-  
(DINESH MOHAN SINHA)  
न्यायिक सदस्य/Judicial Member

Dkp Outsourcing Sr.P.S\*

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, सूरत/ DR, ITAT, SURAT
- गार्ड फाईल/ Guard File

By order/आदेश से,

// True Copy //

सहायक पंजीकार  
आयकर अपीलीय अधिकरण, सूरत