

**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. 1080 & 1081/SRT/2024** (AY 2014-15)  
(Hybrid hearing)

Madan Gopal Sikawat HUF H-1572-73-74, Radhakrishna Textile Market, Ring Road, Surat- 395 002 <b>[PAN : AAKHM 4960 K]</b>	बनाम Vs	National Faceless Assessment Centre, Delhi
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से /Assessee by	Shri Rajesh C Shah, 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	08.08.2025

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

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

These two appeals by assessee are directed against separate orders of National Faceless Appeal Centre, Delhi [for short to as "Ld. NFAC/Ld.CIT(A)"] both dated 28.08.2024 for same assessment year *i.e.*, 2014-15, in ITA No.1080/SRT/2024, the assessee has challenged the addition in the quantum assessment, *wherein* in ITA No.1081/SRT/2024, the assessee has challenged the validity of penalty levying under section 271(1)(c) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') dated 22.09.2022. As certain facts in both appeals are common, thus, both the appeals were clubbed and heard together. Appeal in quantum assessment in ITA

No.1080/SRT/2024 is treated as "**lead**" case and are decided by common order. The assessee has raised the following ground of appeal:-

- "1. The Ld. AO has erred in reopening the case u/s 147 of the Act and in issuing the notice u/s 148 of the Act and also the Ld. CIT(A) has erred in confirming the same.*
- 2. The Ld.AO has erred in making the addition of Rs.21,65,065/- being bogus LTCCG claimed also the Ld.CIT(A) has erred in confirming the same.*
- 3. The Ld. AO has made addition of Rs.1,29,903/- on account of commission paid for acquiring such accommodation entry and also the Ld. CIT(A) has erred in confirming the same.*
- 4. The appellant reserves the right to add, alter, amend or withdraw any grounds of appeal."*

2. At the outset of hearing, the Ld. Counsel for the assessee submits that during the assessment proceedings, the assessee sought adjournment to file details and documents. However, details and documents were not available with the assessee, so assessee was requesting for some more time to file documents and evidences. However, AO meanwhile passed *ex- parte* order u/s 147 r.w.s. 144 r.w.s. 144B of the Act without adjudicating the issue on merit. The Id. Counsel further submitted that now the assessee is ready to submit required documents and evidences before the lower authority, therefore, both these appeals may be restored to the file of AO for fresh adjudication.

3. On the other hand, the Learned Senior Departmental Representative (Ld. Sr. DR) for the Revenue has raised no objection if the Bench remit back both the appeals to the file of AO for deciding afresh.

4. We have heard the submissions of both the parties and have perused the material placed on record. We find that the adjournments were sought by the assessee to file details and documents, as because no details and documents were available with the assessee. But the AO has not given time to file such documents to the assessee. We find that AO passed assessment ex parte by the AO on merit, therefore, one more opportunity should be granted to the assessee to plead his case before the AO. 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 interests of justice, we restore the matter back to the file of AO for *de novo* adjudication and pass a speaking order after affording sufficient opportunity of being heard to the assessee. Therefore, we deem it fit and proper to set aside the order of the Ld. CIT(A) and remit the matter back to the file of the AO to adjudicate the issue afresh on merits. The assessee is also directed to be more vigilant in future and not to take any adjournment without any valid reason. The assessee is also directed to submit all the documents, evidences and replies as soon as possible without any further delay. In the result, grounds of appeal raised by the assessee are allowed for statistical purposes only.

**ITA No.1081/SRT/2024 (AY 11-12)**

5. Considering the above facts and we have restored the matter back to the file of AO grounds of appeal raised in quantum assessment, therefore, the penalty imposed under sections 271(1)(c) of the Act will not survive. However, the Assessing

Officer is given liberty to initiate fresh penalty in accordance with law. In the result, the penalty proceeding is also allowed for statistical purposes.

6. In combined result, both these appeals of the assessee are allowed for statistical purposes.

Order pronounced in under proviso to Rule 34 of the ITAT Rules, 1963

on 08/08/2025.

Sd/-  
(BIJAYANANDA PRUSETH)  
लेखा सदस्य/Accountant Member

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

सूरत / Surat Dated: 08/08/2025

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