



आयकरअपीलीयअधिकरण,राजकोटन्यायपीठ,राजकोट।  
IN THE INCOME TAX APPELLATE TRIBUNAL, “SMC”  
RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

आयकरअपीलसं./ITA No.380/RJT/2025

निर्धारण वर्ष/Assessment Year :2012-13

<b>Bharatkumar Bavachandbhai Bhuva</b> Jamadar Wadi, Bi Shriji Vidyala, Jetpur, Rajkot, Gujarat 360380	बनाम/ Vs	<b>Income Tax Officer</b> Ward 1(2)(5),Rajkot
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>CQOPB2856B</b>		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारितीकीओरसे/Assessee by : Shri Gaurang Khakhar, AR  
राजस्वकीओरसे/Revenue by : Shri Dheeraj Kumr Gupta, Ld. Sr-DR

सुनवाईकीतारीख/**Date of Hearing** : **10/09/2025**

घोषणाकीतारीख/**Date of Pronouncement** : **22/09/2025**

आदेश/Order

**Per,Dr. Arjun Lal Saini, AM**

Captioned appeal filed by the assessee, pertaining to Assessment Year 2012-13, is directed against the order passed under section 250 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) by Learned Commissioner of Income Tax (Appeal)[hereinafter referred to as “CIT(A)”], dated 19.05.2025, which in turn arises out of an assessment order passed by Assessing Officer u/s 144 of the Act, on 09.11.2019.

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

1. “ The impugned Ex-parte Appellate Order u/s. 250 of the Act dated 19th May, 2025 passed by the Ld. Additional /JCIT (A)-7, Kolkata is opposed to law, facts and circumstances of the case



2. *On the facts and circumstances of the case, the assessment order is null and void as the same is in violation of CBDT Circular No. 19/2019 requiring mandatory DIN.*
3. *The Ld. CIT(A) has erred in confirming the addition on account of LTTCG of Rs. 4,36,735/- by passing Ex-parte Appellate Order without adjudicating the grounds of appeal on merits of the case.*
4. *The Ld. CIT(A) has erred in confirming the addition of Rs. 4,36,735/- on the ground of non-compliance of Hearing Notices issued without appreciating the fact the Appellant was not aware of such Notices.*
5. *The Ld. Additional /JCIT (A)-7, Kolkata has grossly erred in law and in facts in confirming the action of the Ld. A.O. in the addition of an amount of Rs. 4,36,735/-being the FMV of Property as long term capital gain without being referring the matter to the Ld. DVO for the purpose of valuation.*
6. *That the order passed by the Ld. CIT u/s.250 of the I.T. Act, 1961 was arbitrary, bad in law and unjust.*
7. *That the assessee craves leave to urge such other ground or grounds before or at the time of hearing of appeal.”*

3. At the outset, the Ld. Counsel for the assessee submitted that order passed by the assessing officer is an *ex-parte* order, as none appeared before the assessing officer. On appeal, by the assessee, the Ld. CIT(A) has also passed the order *ex-parte* order, as none appeared before the Ld. CIT(A).The Ld. Counsel submitted that now the assessee is ready to submit details and documents before the assessing officer and wants to submit some additional evidence also,therefore, the matter may be remitted back to the file of the assessing officer for fresh adjudication.

4. On the other hand, Ld. DR for the Revenue did not have any objection, if the matter is to be remitted back to the file of the assessing officer.

5. I have heard both the parties. I note that in the assessee's case under consideration, the assessment was carried out u/s 144 of the Act and the impugned order passed by the Ld. CIT(A), is an *ex-parte* order and non-speaking order, therefore, I do not wish to make any comments on the merits



of the grounds raised by the assessee. Considering the above facts, I note that assessee has not given sufficient opportunity of being heard and could not plead his case successfully before the Id. CIT(A) and assessing officer. I 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. Now, the assessee wants to submit details and documents before the assessing officer. I 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 case, in the interest of justice, I 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, I 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. It is needless to say that the assessee will be at liberty to adduce any evidences as deemed relevant before the assessing officer at the time of assessment, proceedings in consequence to this order and the Assessing Officer shall, allow the assessee adequate opportunity of being heard and to make relevant submissions, and then pass a speaking order which is fair and judicious. For statistical purposes, the appeal of the assessee is treated as allowed.

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

**Order pronounced in the open court on 22/09/2025.**

**Sd/-**

**(Dr. A.L. SAINI)**

**लेखा सदस्य/ACCOUNTANT MEMBER**

राजकोट /Rajkot  
दिनांक/ Date: 22/09/2025

**(True Copy)**



By order/आदेश से,

सहायक पंजीकार  
आयकर अपीलीय अधिकरण, राजकोट