

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE MS. SUCHITRITA RAGHUNATH KAMBLE, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.511/SRT/2025

Assessment Year: 2017-18

(Hybrid hearing)

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| Sanjay Prabhudayal Tekriwal S-1026 Gautam Textile Market, 1 st Floor, Ring Road, Surat-394 010 | बनाम/ Vs. | Income Tax Officer, Ward-2(3)(4), Surat, Room No.613, 6 th Floor, Aaykar Bhawan, Near Majura Gate, Opp. Civil Hospital, Surat- 395001 |
| स्थायी लेखासं./जीआइआरसं./PAN/GIR No: ADXPT 9123 D | | |
| (अपीलार्थी/Appellant) | | (प्रत्यर्थी/Respondent) |

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| निर्धारिती की ओर से /Appellant by | Shri Mehul Shah, CA |
| राजस्व की ओर से /Respondent by | Ms. Namita Patel, Sr-DR |
| सुनवाई की तारीख/Date of Hearing | 26/08/2025 |
| उद्घोषणा की तारीख/Date of Pronouncement | 26/09/2025 |

आदेश / ORDER

PER BIJAYANANDA PRUSETH, AM:

This appeal by the assessee emanates from order passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') dated 14.02.2024 by the National Faceless Appeal Centre, Delhi/ Commissioner of Income-tax (Appeals), [in short, 'NFAC/CIT(A)'] for assessment year (AY) 2017-18, which in turn assessment order passed by Assessing Officer (in short, "AO") u/s 144 of the Act on 30.09.2019.

2. The ground of appeal raised by the assessee is as under:

1. On the facts and in circumstances of the case as well as law on the subject, the Ld. CIT(A) has erred in passing the ex parte order without giving reasonable and sufficient opportunity of being heard.

2. *On the facts and circumstances of the case as well as law on the subject, the Ld. CIT(A) has erred in dismissing the appeal without passing speaking order.*
3. *On the facts and circumstances of the case as well as law on the subject, the Ld. CIT(A) has erred in confirming the action of AO in making the addition of Rs.10,97,000/- on account of alleged unexplained cash credits u/s.68 of the Act.*
4. *On the facts and circumstances of the case as well as law on the subject, the Ld. AO has erred in taxing the addition by taking the rate @77.25% by attracting section 115BBE instead of taxing as per normal tax slab.*
5. *Even otherwise on the facts and circumstances of the case as well as law on the subject, the AO has erred in taxing the income u/s.115BBE @ 77.25% in a retroactive manner by applying the duly substituted Section 115BBE inserted retrospectively instead of taxing it at 35.54% as per the old provisions of Section 115BBE.*
6. *It is, therefore, prayed that addition made by the AO and confirmed by the Ld. CIT(A) may please be deleted.*
7. *Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal."*

3. The facts of the case in brief are that the assessee failed to file the return of income for AY 2017-18 as stipulated u/s.139(1) of the Act and also failed to file his return of income in response to the notice issued u/s.142(1) of the Act. As per the information received by the department under 'Operation Clean Money, the assessee had deposited the cash amounting to Rs.10,97,000/- during demonetization period in his bank account No. 50200011974270 with the HDFC Bank, Surat during the demonetization period (09.11.2016 to 30.12.2016). In order to verify the reported transaction, information was collected for the concerned bank. On perusal of the bank statement, it was observed that aforementioned bank account No. 50200011974270 was held in the name of assessee's proprietary concern, M/s. Pratham Tex Fab (PAN: ADXPT9123D) and cash deposits amounting to

Rs.10,97,000/- were made in it during the demonetization period. In addition to that, other cash deposits and credits amounting to Rs.2,10,12,885/- were made in the said bank account and in another bank account no. 02511000127866 maintained by the assessee with HDFC bank. Since, the assessee failed to file the return of income, therefore, source of aforementioned cash and credits in his bank accounts remained unexplained. Therefore, notices u/s.142(1) were issued by the AO during assessment proceedings requesting assessee to furnish details on the relevant issues. In compliance of the same, assessee furnished his submission. On perusal of the submission furnished by the assessee and after careful analysis of material available on records, the AO noted that the assessee had squarely failed to satisfactorily explain the issues raised vide notices u/s.142(1) of the Act. The AO further noted that bills and vouchers submitted by the assessee were not sacrosanct and assessee failed to explain the discrepancies pointed out by him during assessment proceedings. Also, the assessee failed to justify with supporting evidences the genuineness of opening stock of Rs.1,75,63,520/-. It was also seen by AO that books of account were not properly maintained by the assessee. Therefore, AO rejected the books of account of the assessee u/s.145(1) of the Act and estimated the net profit of the assessee @ 8% of gross receipts. Accordingly, the net profit was estimated at Rs.11,17,810/-. Further, the AO noted that the assessee had failed to establish the source and nature of cash deposits of Rs.10,97,000/- in his bank accounts during the

demonetization. Therefore, the aforementioned cash deposits of Rs.10,97,000/- was treated as unexplained cash credits u/s.68 of the Act and added to the total income of the assessee, which was to be taxed u/s.115BBE of the Act at the rate of 60%. Accordingly, order u/s. 144 of the Act was passed by the AO on 21.11.2019 wherein total income of the assessee was determined at Rs.22,14,810/-. Aggrieved by the addition made by AO, the assessee filed appeal before the CIT(A). During the appellate proceedings, CIT(A) observed that the cash deposits of Rs.10,97,000/- in the bank account of the assessee remained unexplained. CIT(A), therefore upheld the addition of Rs.10,97,000/- made by the AO u/s.68 of the Act as unexplained cash credits, thereby dismissing the appeal of the assessee.

4. Aggrieved by the order of Ld. CIT(A), the assessee filed appeal before this Tribunal. The Learned Authorized Representative (Ld. AR) of the assessee submitted that the CIT(A) has passed the order without giving reasonable and sufficient opportunity of being heard to the assessee. The CIT(A) issued only one notice but did not allow any adjournment though request was made. The CIT(A) has also passed a non-speaking order which is not as per the mandate of section 250(6) of the Act. He requested that the assessee may be granted another opportunity of hearing to plead his case on merit. He promised to file all the details and evidences in support of his claim.

5. On the other hand, Ld. Sr. DR supported order of lower authorities. She would, however, has no objection if the matter is restored to the file of CIT(A).

6. We have heard both the parties. The Ld. AR stated that since the CIT(A) has passed *ex parte* order without giving reasonable and sufficient opportunity of being heard, therefore, one more opportunity of hearing may be given to him for presenting his case properly. We are of the view that one more opportunity should be given to the assessee to plead his case. 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. Accordingly, we hold that the interests of justice would be met in case the CIT(A) examines the case of assessee afresh. Therefore, in the interest of justice, we set aside the order of Ld. CIT(A) and restore the matter back to the file of CIT(A) for *de novo* adjudication and to pass a speaking order after affording reasonable opportunity of being heard to the assessee. The assessee is also directed to be vigilant and furnish explanation and submit relevant details and documents before the CIT(A). For statistical purposes, the appeal of the appellant is treated as allowed.

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

Order pronounced in accordance with Rule 34 of ITAT Rules, 1963
on 26/09/2025 in the open court.

Sd/-
(SUCHITRITA R KAMBLE)
न्यायिक सदस्य/JUDICIAL MEMBER

सूरत /Surat

दिनांक/ Date: 26/09/2025

Dkp Outsourcing Sr.P.S*

Sd/-
(BIJAYANANDA PRUSETH)
लेखा सदस्य/ ACCOUNTANT MEMBER

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

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त (अपील)/ The CIT(A)
- 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