

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” BENCH, SURAT**

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &  
SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER**

**I.T.A. No. 592/SRT/2025  
Assessment Year: 2011-12**

Kamlesh Kantilal Gandhi C/203, Shiv Campus, HN Road, Adajan, Surat - 395009 <b>PAN – ABZPG2435K</b>	Vs	ITO, Ward – 3(2)(6) Anavil Business Centre, Adajan Surat - 395007
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Shri Rasesh Shah, CA
Revenue by	Ms. Namita Patel, Sr. DR

Date of Hearing	07.10.2025
Date of Pronouncement	09.10.2025

**ORDER**

**Per: SHRI. SANDEEP GOSAIN, J.M.:**

The present appeal has been filed by the assessee challenging the impugned order dt. 22.03.2025 passed under section 250 of the Income Tax Act, 1961 (‘the Act’), by the National Faceless Appeal Centre (NFAC) / CIT(A) for the assessment year 2011-12.

2. At the very outset, we noticed that assessee was *ex-parte* before AO and Ld. CIT(A). In this regard Ld. AR explained the circumstances because of which he could not appear before the lower authorities which are reproduced herein below:

*The facts of the case and contentions in respect thereof as raised by the appellant are discussed hereinafter in brief for the kind consideration of the Hon'ble Bench.*

*4.1 The appellant is an individual working as a cashier in a co-operative bank.*

*4.2 The return of income was filed by the appellant on 17-03-2011 declaring Total Income Rs. 2,98,830/- from salary.*

*4.3 However, the appellant was in receipt of the notice u/s. 148 of the Act dated 29- 03-2018.*

*4.4 The appellant had e-filed his return of income in response to the aforesaid notice u/s. 148 on 15-11-2018 declaring total income of Rs. 2,98,830/ along with short term loss of Rs. 1,38,009/- and loss of Rs. 26,644/ owing to loss on account of derivative transactions.*

*4.5 Pursuant to the filing of return of income in response to notice u/s. 148, the learned ITO learned about the fact that the appellant had already vacated the address as available in their record and had shifted to another address.*

*4.6 The AR of the appellant had approached the learned ITO making her aware about the fact that aforesaid transaction was not an intentional indulgence of the appellant; but was on account of the mischief of the broker of entering into the said transaction without the consent of the appellant.*

*The said fact gets substantiated since the appellant being a cashier in a bank was never available exclusively for giving directions for purchase and sale of the share/ derivative transactions so entered into and the broker was accordingly, carrying out the transactions as per his own whims and fancies.*

*4.7 Further, it may also be appreciated that the father of the appellant is suffering from a medical ailment since several years and during the currency of the re-opening assessments; his conditioned worsened to the extent that his father had lost his senses of passing urine and stool. The appellant being the sole bread earner of the family was not able to devote requisite time for the proceedings.*

*4.8 However, the appellant had also tried to get the details pertaining to the transactions in respect of the alleged penny stock company viz. CCL Inter; but couldn't get the same till the re-opening proceedings were concluded.*

*5. Thus, it was on account of his father's ailment and the unavailability of the required documents that the appellant could not comply and make the necessary submissions before the learned ITO in time.*

3. The basic reason for non-appearance is contained in para 4.7, 4.8 & 5. However on the other hand Ld. DR relied upon the orders passed by the revenue authorities.

4. Be that as it may, without going into the merits of the issues raised by the assessee and considering the fact that there was reasonable cause, because of which assessee could not put effective representation before AO and Ld. CIT(A). Hence the Bench is of the view that one more opportunity be given to the assessee to represent his case before AO. Therefore considering the overall circumstances of the present case, we deem it proper to restore the matter back to the file of AO for deciding the matter afresh by providing one more opportunity to the assessee.

5. Before parting, we make it clear that our decision to restore the matter back to the file of the AO shall in no way be construed as having any reflection or expression on

the merits of the dispute, which shall be adjudicated by the AO independently in accordance with law.

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

Order pronounced in the open court on 09/10/2025

Sd/-  
**OM PRAKASH KANT**  
**ACCOUNTANT MEMBER**

Sd/-  
**SANDEEP GOSAIN**  
**JUDICIAL MEMBER**

Surat:

Dated: 09/10/2025

*KRK, Sr. PS.*

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy

By order

(Asstt. Registrar)  
**ITAT, Surat**