

**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. 334/SRT/2025
Assessment Year: 2010-11**

Sarita Shantilal Begani 8-9, Sant Tukaram Society -3, Umra B.O, Umra, Surat – 395007. PAN – ACTPB1366R	Vs	DCIT, Circle – 1(1)(1) Opp New Civil Hospital, Near Desai CNG Gas Stn, 395001
(Appellant)		(Respondent)

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

Date of Hearing	06.10.2025
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. 25.02.2025 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 2010-11.

2. At the very outset, we noticed that Ld. AR has taken new legal ground for challenging the reopening of the assessment wherein it was argued that AO has not taken sanction from the appropriate authority while issuing notice of reopening u/s 148 of the Act. It was further

submitted that while issuing reasons recorded regarding reopening of the assessment, the copy of the investigation report or any other documents have not been supplied to the assessee and there was no new tangible material before the AO to reopen the assessment.

3. After having heard the counsels for both the parties and on going through the records, we noticed that these grounds were not raised up before Ld. CIT(A) and the same is being taken before us for the first time. It is equally true that legal ground can be taken at any stage of hearing even before the Tribunal for the first time as has been held by the decision of the Hon'ble Supreme Court in the case of ***NTPC V/s. CIT(1998) 229 ITR 383 (SC)***. Therefore, we allow the assessee to raise the legal ground before us for the first time and admit the same to be adjudicated.

4. Since the legal ground raised by the assessee requires verification of the assessment records, therefore we deem it fit and proper to send these issues back to the file of Ld. CIT(A) to adjudicate the same after getting it verified or calling the report from concern AO and after providing opportunity of hearing to the assessee. Therefore we ordered accordingly. The assessee shall not seek any adjournment on frivolous grounds and shall remain cooperative during the course of proceedings.

5. Before parting, we make it clear that our decision to restore the matter back to the file of the Ld. CIT(A) shall in

no way be construed as having any reflection or expression on the merits of the dispute which shall be adjudicated by the Ld. CIT(A) independently in accordance with law.

6. Since, we have restore the legal ground raised by the assessee back to the file of Ld. CIT(A), therefore other grounds raised on merits are not being adjudicated at this stage and the same are kept open.

7. 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