

IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRIDINESH MOHAN SINHA, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUETH, ACCOUNTANT MEMBER

आयकरअपीलसं./ITA No.809/SRT/2024

Assessment Year: 2016-17

(Hybrid hearing)

Labhu Balubhai Ghevariya 3, Ila Park Society Opp. Katargam Police Station, Katargam, Surat-395004	बनाम/ Vs.	Income Tax Officer Ward—3(2)(4), Surat Aayakar Bhavan, Majura Gate, Surat-395 001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AKDPP0165A		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारितीकीओरसे/Appellant by	Shri P.M. Jagasheth, CA
राजस्वकीओरसे /Respondent by	ShriAjay Uke, Sr. DR
सुनवाई की तारीख/Date of Hearing	28/07/2025
उद्घोषणा की तारीख/Date of Pronouncement	26/09/2025

आदेश / ORDER

PER BIJAYANANDA PRUETH, AM:

This appeal by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') dated 04.06.2024 by the National Faceless Appeal Centre, Delhi/Commissioner of Income-tax (Appeals) [in short, 'Ld. CIT(A)'] for the Assessment Year (AY) 2016-17, which in turn arises out of assessment order passed by Assessing Officer (in short, 'AO') u/s 143(3) of the Act dated 13.12.2018. Grounds of appeal raised by the assessee are as under:

1. *On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of Income-Tax(Appeals) has erred in confirming the action of Assessing Officer in making addition of Rs.9,26,110/-towards the alleged disallowed the deduction claim u/s 54B of the Income-tax Act, 1961.*

2. *On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of Income-Tax(Appeals) has erred in confirming the action of Assessing Officer in making addition of Rs.84,87,825/- on account of alleged for purchasing agriculture land treated as unexplained investment u/s.69 of the Income-tax Act, 1961.*
3. *On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of Income-Tax(Appeals) has not offered adequate opportunities to hear the case and passed ex-parte order and hence the case may please be set aside and restored back to the CIT(A) or AO.*
4. *On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of Income-Tax(Appeals) has erred in confirming the action of the Assessing Officer in initiating penalty proceedings u/s 271(1)(c) of the Income-tax Act, 1961.*
5. *It is therefore prayed that the above addition may please be deleted as learned Members of the Tribunal may deem it proper.*
6. *Appellant craves leave to add, alter or delete any ground(s) either before or in the course of the hearing of the appeal."*

2. Facts of the case in brief are that assessee filed return of income on 30.03.2017 for A.Y 2016-17 declaring total income of Rs.6,10,930/-. The case was selected for scrutiny under CASS. Notices u/s.143(2) and u/s.142(1) of the Act were issued to the assessee during assessment proceedings. In their compliance, assessee furnish part details/documents. On perusal of submissions furnished by the assessee and material available on records, the AO noticed that assessee purchased agricultural land on 23.12.2015 whereas he had sold agriculture land on 30.03.2016. However, the assessee did not furnish any documentary evidence regarding the agricultural activities carried out on the said land, the crops grown for the last 2 year in support of his claim for deduction u/s.54B of the Act. Accordingly, the AO disallowed the deduction

u/s.54B of the Act and treated Rs.9,26,110/- as capital gain and added the same to the total income of the assessee.

2.1 On further verification of details available on record, it was noticed that during the year under consideration the assessee had purchased agriculture land situated at Survey No.876/1, Block No. 813/B alongwith another three co-owner for sale consideration of Rs.3,37,11,300/-. It was noticed that share of the assessee in said land was at 25% and accordingly made payment of Rs.84,27,825/-, however, assessee failed to furnish any documentary evidence in respect of payment made for the purchase of said agriculture land. Consequently, the source for purchase of immovable property amounting to Rs.84,27,825/- was treated as assessee's unaccounted investment by invoking provisions u/s.69 of the Act. Accordingly, order u/s.143(3) of the Act was passed by the AO on 13.12.2018 by making addition total income of assessee of Rs.9,26,110/- on account of capital gains and another addition of Rs.84,27,825/- on account of unexplained investment, thereby assessing total income of the assessee at Rs.99,64,865/-.

3. Aggrieved by the addition made by AO, assessee preferred appeal before CIT(A). In appellate proceedings, the CIT(A) issued several notices of hearing. The assessee did not file any written submission nor evidence nor sought any adjournment in response to the above notices. Thereafter, the CIT(A) has referred to Form-35 and assessment order and observed that there

is no material on record to warrant interference in the order of AO. He, therefore, dismissed the appeal of assessee.

4. Aggrieved by the order of the CIT(A), appellant has filed present appeal before the Tribunal. The Ld. AR submitted a paper book including copy of return of Income and computation of income for AY 2016-17, agriculture land sale deed dated 28.03.2016, agriculture land purchase deed dated 19.12.2013 and agriculture land purchase deed dated 23.12.2015, table depicting date wise receipt of payments received as sale consideration and date wise payments made for purchase of new agriculture land, copy of ICICI Bank statement, etc. Apart from this, Ld. AR also filed an affidavit of the assessee wherein it is stated that during the filing of appeal before CIT(A), they had clearly mentioned email Id : ca.mihirthakkar@gmail.com for communication of hearing notices in Form 35, however, all the hearing notices u/s.250 of the Act were issued by CIT(A) on Email ID : 982@asalalia.in which was created by old consultant of the assessee for filing of return of income only and not used for any correspondence. Hence, the assessee had not received any hearing notices from CIT(A) during the appellate proceedings. Consequently, assessee could not be represented before CIT(A) properly. The Ld. AR requested that another opportunity may be given to the assessee to plead his case on merit.

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

6. We have heard both the parties and perused the materials on record. The Ld. AR has argued that the CIT(A) has passed order without giving reasonable and sufficient opportunities of being heard to assessee. As mentioned supra, the Ld. AR stated that CIT(A) sent all the notices on the email ID of the old tax consultant of the assessee, which were not communicated to the assessee; therefore, case of the assessee could not be represented properly before the CIT(A). Resultantly, the CIT(A) dismissed appeal by passing a mechanical order without discussing merits of the case. He has simply confirmed the addition made by AO without elaborating the issues in a proper manner. Thus, we find that impugned order passed by the CIT(A) is clearly violative of the express provisions of Section 250(6) of the Act, which provides that the appellate orders of the CIT(A) are to state the points arising in the appeal, the decision of the authority thereon and the reasons for such decisions. Considering the facts and circumstances of the case and the submission of Ld.AR that the Assessing Office made addition for the want of evidence, which was confirmed by CIT(A) in *ex parte* order, we are of the considered view that the assessee deserves one more opportunity to contest its case on merit. Accordingly, we hold that the interests of justice would be met in case the CIT(A) examines the case of assessee afresh subject to the payment of cost of Rs.10,000/- (Rupees ten thousand only) by the assessee to the credit of the 'PM National Relief Fund' within three weeks from receipt of this order. Subject to the payment of above cost, we set aside the order of Ld.

CIT(A) and restore the matter back to the file of CIT(A) to pass fresh appellate order in accordance with law after granting adequate opportunity of hearing to assessee. The assessee is directed to be vigilant and to furnish all details and explanation as needed by CIT(A) by not seeking adjournment without valid reason. The ground of appeal raised by the assessee is allowed for statistical purposes.

7. In the result, appeal filed by the assessee is allowed for statistical purpose.

Order is pronounced on _26/09/2025 in the open court.

Sd/-
(DINESH MOHAN SINHA)
न्यायिकसदस्य/JUDICIAL MEMBER
सूरत/Surat
दिनांक/ Date: 26/09/2025
Dkp Outsourcing Sr.P.S*

Sd/-
(BIJAYANANDA PRUSETH)
लेखासदस्य/ACCOUNTANT MEMBER

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

- **अपीलार्थी/ The Appellant**
- **प्रत्यर्थी/ The Respondent**
- **आयकरआयुक्त/ CIT**
- **आयकरआयुक्त(अपील)/ The CIT(A)**
- **विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, सूरत/ DR, ITAT, SURAT**
- **गार्डफाईल/ Guard File**

// True Copy //

By order/आदेश से,

सहायक पंजीकार
आयकर अपीलीय अधिकरण, सूरत