

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

आयकर अपील सं./ITA Nos.367 & 368/SRT/2025

Assessment Years: (2015-16 & 2017-18)

(Hybrid hearing)

Jagdishbhai Karamshibhai Bodra 37, Diamond Nagar, Mini Hira Bazar, Varachha Road, Surat-395 004	बनाम/ Vs.	Deputy Commissioner of Income-tax, Circle-1(1)(1), Surat, Room No.108, Aayakar Bhawan, Majura Gate, Surat - 395 001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: ABYPB 6267 B		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से /Appellant by	Shri Suresh K. Kabra, CA
राजस्व की ओर से/Respondent by	Ms. Namita Patel, Sr-DR
सुनवाई की तारीख /Date of Hearing	28/08/2025
उद्घोषणा की तारीख /Date of Pronouncement	17/11/2025

आदेश / ORDER

PER BIJAYANANDA PRUSETH, AM:

These two appeals by the assessee emanate from the separate orders passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act'), dated 10.02.2025 and 13.01.2025 by the National Faceless Appeal Centre, Delhi/ Commissioner of Income-tax (Appeals) [in short, 'CIT(A)'] for the assessment years (AYs) 2015-16 and 2017-18, which in turn arose out of separate assessment order and penalty imposed u/s 271AAC(1) passed by Assessing Officer (in short, 'AO') u/s 147 r.w.s. 144 r.w.s. 144B of the Act on 26.04.2023 and 30.10.2023 respectively. With the consent of both parties, both appeals were

heard together and a common order is passed for the sake of convenience and brevity. ITA No.367/SRT/2025 is take as the “lead” case.

2. Grounds of appeal raised by the assessee in ITA No.367/Srt/2025 for AY 2015-16 are as under:

“1. The Ld. CIT(A) has erred and was not just and proper on the facts of the case and in law in considering the appeal as delayed and not admitting the same.

2. Prayer

2.1 The appeal maybe directed to be admitted for consideration.

2.2 Personal hearing may be granted.

2.3 Any other relief that your honours may deem fit maybe granted.

3. The assessee craves leave to add, amend, modify alter or delete any of the grounds at the time of hearing.”

3. Grounds of appeal raised by the assessee in ITA No.3689/Srt/2025 for AY 2017-18 are as under:

“1. The Ld. CIT(A) has erred and was not just and proper on the facts of the case and in law in considering the appeal as delayed and not admitting the same.

2. Prayer

2.1 The appeal maybe directed to be admitted for consideration.

2.2 Personal hearing may be granted.

2.3 Any other relief that your honours may deem fit maybe granted.

3. The assessee craves leave to add, amend, modify alter or delete any of the grounds at the time of hearing.”

ITA No.367/SRT/2025 (AY 2015-16)

4. The facts of the case in brief are that in the instant case, assessee filed ITR on 31.03.2017 declaring total income of Rs.9,58,190/- which was found invalid. An information was appearing under the 'CRIU/VRU High Risk Cases', the

assessee had entered into several transactions during the period. It was also reported therein that a case was registered against Shri Jagdish Bodra, in respect of a bank fraud amounting to Rs.128 crores. According to the information received, Shri Jagdish Bodra had forged signatures of his erstwhile partners and obtained a loan from State Bank of India and siphoned off the said loan. SBI Asset Management Branch, Ahmedabad had issued a public notice in newspaper wherein possession of properties of Raj Infraspace had been taken by the SBI. During the course of investigations, the assessee was asked to explain the transactions in the bank accounts, however, the assessee was unable to explain the same or provide the requisite information. Funds were siphoned off by the assessee through the bank accounts of the several companies/firms managed by the Group. As per the information, an income of Rs.99,52,249/- chargeable to tax, had escaped assessment for the year under consideration. On the basis of information available with the department, the AO reopened the case of the assessee and issued notice u/s 148 of the Act on 18.06.2021. Subsequently, assessee was requested to furnish necessary details in respect of information received by the department, vide notices u/s 142(1) of the Act, however, no compliance was made by the assessee to aforesaid statutory notices. Therefore, in absence of any submission or reply of the assessee, source of investment remained unverified and hence, the whole amount of Rs.99,52,249/- on account of siphoned off of funds by the assessee through the bank accounts, was added back to the total income of the assessee u/s 69 r.w.s. 115BBE of the Act as

unexplained investment in cash. Accordingly, order u/s 144 r.w.s. 147 of the Act was passed by AO by determining total income of the assessee at Rs.1,09,10,439/-.

5. Aggrieved by the order of AO, the assessee filed appeal before the CIT(A). During the appellate proceedings, CIT(A) observed that no details were filed by the assessee and there was a delay of 188 days in filing of appeal, however, no case was made out by the assessee explaining this delay in filing appeal. Thereafter, CIT(A) observed that assessee was not vigilant and proceeded to decide the appeal based on material available on record. As per Section 249(2) of the Act, the appeal should be presented within the 30 days of service of the notice of the demand. The CIT(A) may admit belated appeal if sufficient cause is shown by the applicant. In case of the assessee, no sufficient cause was given for delay of 188 days. Therefore, even the preliminary onus to establish the existence of sufficient cause has not been discharged. In view of the above appeal was not admitted and it was treated as dismissed.

6. Aggrieved by the order of CIT(A), the assessee has filed present appeal before this Tribunal. The Ld. AR of the assessee contended that the CIT(A) should have condoned the delay and decided the case on merit. Since, adequate opportunity of hearing was not given to the assessee, it is a clear case of violation of principles of natural justice. He stated that during the appellate proceedings, the assessee could not appear before the CIT(A) due to circumstances beyond his control. Therefore, Ld. AR contended that in the interest of justice, one more

opportunity should be given to the assessee to plead his case before the lower authorities. He submitted that even in the earlier appeal against the order of CIT(A), who had confirmed the penalty order u/s 271(1)(c) passed by the AO, the Co-ordinate Bench of this Tribunal has set aside to matter to the file of CIT(A) in ITA No.839/SRT/2024 dated 09.12.2024. However, since the AO has also passed an *ex parte* order, he requested to set aside the matter to the file of AO.

7. On the other hand, Ld. Sr-DR submitted that assessee was negligent during the appellate proceedings; hence, appeal of the assessee should be dismissed. In case the Tribunal decides to set aside the matter, appropriate cost may be levied on the appellant.

8. We have heard both the parties and perused the materials available on record. The Ld. AR submitted that the non-compliance was neither deliberate nor intentional. He requested for one more opportunity in the interest of justice and fair play. We note that CIT(A) has not admitted the appeal due to delay in filing of appeal as well as non-compliance by the assessee before him. The Ld. AR stated that one more opportunity of hearing may be given to him for presenting his case properly. We find that the co-ordinate Bench of this Tribunal in appellant's own case for AY 2015-16 in ITA No.839/SRT/2024 dated 09.12.2024 has set aside the order of CIT(A), who had confirmed the penalty order by the AO u/s 271(1)(c) of the Act. The CIT(A) did not condone the delay and dismissed the appeal of the appellant. The Ld. AR, therefore, requested to set aside the present order of CIT(A) and restore it to the file of AO, who had also passed an *ex parte* order. We

find that appellant could not plead his case before the CIT(A) who had not admitted the appeal and dismissed the same in *limine*. 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 AO re-examines the entire issue afresh subject to the payment of cost of Rs.10,000/- (Rupees ten thousand only) by the assessee to the credit of the 'Prime Minister's National Relief Fund' within 30 days 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 AO for fresh adjudication after affording sufficient opportunity of being heard to the assessee. The assessee is also directed to be vigilant and furnish explanation and relevant details before the AO expeditiously by not taking adjournment without valid reason. For statistical purposes, the appeal of the appellant is treated as allowed.

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

ITA No.368/SRT/2025 (AY 2017-18)

10. Though the grounds raised by the appellant are similar, but the facts are different. In the instant appeal, the appellant has contested the order of CIT(A) u/s 250 of the Act confirming the penalty u/s 271AAC of the Act levied by the AO vide his order dated 30.10.2023. The CIT(A) has confirmed the penalty of Rs.5,91,609/- levied by AO u/s 271AAC of the Act. The Ld. AR submitted that the

CIT(A) dismissed the appeal filed by the assessee against the assessment order. On further appeal, the co-ordinate Bench of this Tribunal in ITA Nos.750 and 751/SRT/2024 dated 20.11.2024 had set aside the order of CIT(A) and remitted the matter back to the file of AO. Hence, we deem it proper to set aside the order of Ld. CIT(A) and restore the matter back to the file of AO for fresh adjudication after making the fresh assessment for the subject assessment year. Needless to mention that the AO should provide adequate and reasonable opportunity of being heard to the assessee. The assessee is directed to furnish explanation and details as needed by the AO. The appeal of assessee is allowed for statistical purposes.

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

12. In combine result, both appeals of assessee are allowed for statistical purposes.

Order pronounced in accordance with Rule 34 of ITAT Rules, 1963 on 17/11/2025 in the open court.

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

सूरत /Surat

दिनांक/ Date: 14/11/2025

Dkp Outsourcing Sr.P.S*

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

आदेश की प्रतिलिपि अग्रेषित/ 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