

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

आयकर अपील सं./ITA No.327/SRT/2025

Assessment Year: (2012-13)

(Hybrid Hearing)

Late Rameshchandra G. Choksi, 51, Pratishtha Society, Sarela Wadi, Ghod Dod Road, Surat – 395007	Vs.	ITO, Ward – 3(3)(4), Surat
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAMPC2130R		
(Appellant)		(Respondent)

Appellant by	Shri Kishore Gheewala, CA
Respondent by	Shri Ajay Uke, Sr. DR
Date of Hearing	06/08/2025
Date of Pronouncement	03/11/2025

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 18.02.2025 by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short, 'CIT(A)'] for the assessment year (AY) 2012-13.

2. The grounds of appeal raised by the assessee are as under:

"On the facts & circumstances of the case and the law on the subject:

1. *The learned CIT(A) has grossly erred in adopting the easiest way of dismissing the appeal ex party in gross violation of principles of natural justice & audi alteram partem.*

2. *The Ld. CIT (Appeals) has miserably failed to understand and appreciate that there are specific and categorical provisions to deal with non-*

compliances at the Assessee's end and the appellant has already been penalized for the same vide order Dt.10-12-2019 which has caused gross injustice to the appellant due to dismissal of appeal.

3. The invocation of Sec. 147, by the Ld. A.O is unjustified an illegal as no reasonable person could have jumped to the conclusion of escapement of income on the basis of the material, then available with the Ld. AO.

4. The Assessment proceedings u/s 147 & the consequential assessment order without serving notice to the Appellant by 31-03-2019, are time barred.

5. The invocation of Sec.147, in spite of categorical denial by the Appellant of the alleged payments of Rs. 4,56,000/- for Credit Cards by the Appellant's father, is bad in law, in absence of any personal verification or confirmation by the learned A.O., of correctness of the information received.

6. The initiation of proceedings u/s 147, appear to have been vitiated with incurable illegality for want of approval of the prescribed authority.

7. The Ld. A.O. has erred in making the additions for Rs. 32,38,492/- in respect of credits with The Surat Peoples Co-Op Bank Ltd and have committed an excess of law by making the addition thereof in complete disregard of their judicious and quasi-judicious status.

8. The Ld. A.O. has erred in making the addition of Rs. 85,352/- in respect of credits in Bank A/c of Fine Fibers, etc

9. The Ld. A.O. has erred in making the addition of Rs. 6,40,546/- in respect of payments of bank credit cards.

10. The learned CIT (A) & the learned AO have miserably failed to understand & appreciate that

a) The assessee has expired as long back as on 11-06-2022.

b) The Dept. has woke up after about 7 years by initiating proceedings by issuing notice u/s 133(6) on 09-03-2019.

c) It has been too difficult a task for the legal heirs to compile details of the deceased's transactions & that too, after about 7 years. & therefore, the delays & laches on the part of the legal heirs being but natural & quite justified require a sympathetic treatment instead of whipping the excesses of law.

11. Without prejudice to the above, the impugned order of the CIT(A) and the Assessment Order of the Ld. A.O are grossly unjust, rendering the matter liable to be remanded in the interest of justice.

12. The Appellant craves leave to add to, alter or amend the present grounds of Appeal.”

3. Brief facts of the case are that assessee had not filed his original return of income for AY 2012-13. As per AIR information, the assessee made various credit card payments, i.e., (i) Rs.2,10,000/- for Citi Bank credit card and (ii) Rs.2,46,000/- for SBI credit card. The Assessing Officer (in short, 'AO') also noticed that the total receipts of the assessee as per 26AS for AY 2012-13 was at Rs.1,29,063/- (interest paid by The Surat People's Co-op. Bank). To verify the issues, notice u/s 133(6) of the Act was issued to the concerned bank, calling for various details. In the meanwhile, the AR of the assessee informed that assessee died on 11.06.2012. Copy of death certificate was submitted before the AO. Thereafter, the case was re-opened u/s 147 of the Act after taking prior approval of the competent authority by issuing notice u/s 148 of the Act on 30.03.2019. The AO show caused as to why Rs.49,64,128/- including credit of Rs.45,08,129/- should not be treated as unexplained and added to total income for AY 2012-13. In response, the assessee filed his return of income against notice u/s 148 of the Act on 04.01.2019, declaring total income of Rs.1,29,060/-. Thereafter, notices were issued but assessee did not file reply and requested for adjournment. The request was rejected and assessee added credit of Rs.32,38,492/- in the bank accounts of assessee

with the Surat Peoples Co-op. Bank, Rs.85,352/- in other bank accounts and Rs.6,40,546/- in respect of payments of credit cards. The AO determined the total income of Rs.40,93,450/- against the returned income of Rs.1,29,060/-.

4. Aggrieved by the order of AO, the assessee filed this appeal before the CIT(A). The CIT(A) had issued two notices dated 14.03.2021 and 10.01.2025, requesting assessee to furnish submission. In response to the notice dated 10.01.2025, the assessee sought adjournment, which was granted by the CIT(A) upto 27.01.2025 to submit the reply. The assessee was requested to furnish his replies on the points within the specified time allowed in the notice. Despite various opportunities, the appellant failed to comply with the notices issued by the CIT(A). The CIT(A) relied upon the decision of ITAT, Chandigarh in case of M/s Chhabra Land & Housing Ltd., in ITA No.1025 to 1027/Chd/2005 and the decision of Hon'ble Supreme Court in case of B. N. Bhattacharjee & Others, 118 ITR 461 (SC) wherein it was held that the appeal does not mean merely filing of the appeal but effectively pursuing the same. The CIT(A) upheld the addition made by AO and dismissed appeal of the appellant.

5. Aggrieved by the order of CIT(A), the assessee filed appeal before the Tribunal. The learned Authorized Representative (Id. AR) of the assessee submitted that assessee could not represent his case before the CIT(A) and the order being ex parte order, stood vitiated on account of violation of principles of natural justice. The Id. AR submits that during the appellate

proceedings, the assessee could not appear before the CIT(A) due to circumstances beyond his control. Adequate opportunity of hearing was not given to the assessee; therefore, Id. AR requested that one more opportunity should be given to the assessee to plead his case before the CIT(A).

6. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR) of the revenue supported the order of lower authorities. He submitted that during the appellate proceedings, the assessee was negligent and non-cooperative, due to which the additions were confirmed by CIT(A). However, he did not have any objection if the matter is restored to the file of CIT(A).

7. We have heard both the parties and perused the materials available on record. It is an undisputed fact that assessee has been non-cooperative during the appellate proceedings. The Id. AR submitted that adequate opportunity was not provided by the CIT(A). He submitted that appellant is ready with all details and, therefore, he requested one more opportunity to plead its case on merit. The Id. CIT-DR also did not object if the matter is set aside for fresh adjudication. We are of the view that the principles of natural justice would call for giving another opportunity of hearing to the assessee. Accordingly, we set aside the order of CIT(A) and remit the matter to the file of CIT(A) for fresh adjudication in accordance with law after granting adequate opportunity of hearing to the assessee. The assessee is directed to

be more vigilant and diligent and to furnish all the details and explanations as needed by the CIT(A) by not seeking adjournment without valid reasons.

8. In the result, appeal of the assessee is allowed for statistical purpose.

Order is pronounced in terms of provision of Rule 34 of ITAT Rules, 1963 on 03/11/2025.

Sd/-
(DINESH MOHAN SINHA)
JUDICIAL MEMBER

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Surat

दिनांक/ Date: 03/11/2025

SAMANTA

Copy of the Order forwarded to:

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, Surat
6. Guard File

By Order

// TRUE COPY //

Assistant Registrar/Sr. PS/PS
ITAT, Surat