

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ "ए", अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, AHMEDABAD

श्री संजय गर्ग, न्यायिक सदस्य एवं
श्री नरेन्द्र प्रसाद सिन्हा, लेखा सदस्य के समक्ष।

Before Shri Sanjay Garg, Judicial Member And
Shri Narendra Prasad Sinha, Accountant Member

Sl. No(s)	आयकर अपील सं/ ITA No(s)	निर्धारण वर्ष/ Assessment Year(s)	Appeal(s) by :	
			अपीलार्थी/ Appellant	प्रत्यर्थी/ Respondent
1.	1766/Ahd/2025	2017-18	Thol Seva Sahkari Mandli Ltd. Thol B.O. Thol Mehsana - 382 728 (Gujarat) PAN: AABAT 5977 B (Assessee)	The ITO Ward-5 Kadi - 382 715 (Revenue)
2.	1767/Ahd/2025	2017-18	Assessee	Revenue
3.	1768/Ahd/2025	2017-18	Assessee	Revenue
4.	1769/Ahd/2025	2018-19	Assessee	Revenue
5.	1770/Ahd/2025	2018-19	Assessee	Revenue
6.	1771/Ahd/2025	2018-19	Assessee	Revenue
7.	1772/Ahd/2025	2018-19	Assessee	Revenue

Assessee by :	Shri Rupesh R. Shah
Revenue by :	Shri Rajiv Garg, Sr.DR

सुनवाई की तारीख/Date of Hearing : 27 /11/2025
घोषणा की तारीख /Date of Pronouncement: 27/11/2025

आदेश/ORDER

Per Sanjay Garg, Judicial Member:

The captioned are bunch of seven appeals out of which ITA Nos.1766/Ahd/2025 & 1769/Ahd/2025 are appeals agitating the quantum additions for AY 2017-18 & 2018-19 respectively made by the Assessing Officer (AO) in *ex-parte*/best judgement assessment orders passed u/s.144 of the

Income Tax Act, 1961 (hereinafter referred to as “the Act”) and further confirmed by the Ld.CIT(A). The rest of the appeals are relating to the consequential penalties levied by the AO under different provisions of Income Tax Act.

2. At the outset, the Ld. Counsel for the assessee, has brought our attention to the impugned assessment orders in both the quantum appeals to show that the same are *ex-parte*/best judgement assessment orders passed by the AO. The Ld. Counsel for the assessee has further brought our attention to the impugned orders of the CIT(A) to show that the same are also *ex-parte* orders. There is no representation of the assessee either before the AO or before the Ld. CIT(A). The Ld. Counsel has further submitted that the Ld. CIT(A) has dismissed the appeals of the assessee being barred by limitation as there was a considerable delay in filing the appeals before the Ld. CIT(A). The Ld. Counsel has further submitted that the assessee is a Co-operative Society of farmers and its main activity is to provide financial accommodation to its members for agricultural purposes or for the purposes connected with the agricultural activities including purchase of agricultural implements, seeds and other related articles. The Ld. Counsel has submitted that the members of the Society are farmers and are mostly uneducated or less educated. They were not aware of the nitty-gritties of the Income-tax proceedings. That the accounts of the Society were being audited through the Government Auditor and apart from that they had also appointed a Chartered Accountant (CA), namely Mr.Piyush S. Patel, who was supposed to look into the other government compliances account related issues, income-tax issues, etc. The Ld. Counsel has further submitted that the members of the assessee-society were told that the income of the assessee-society was exempt from taxation and, therefore, they need not to file any income-tax return, etc. and, therefore, no return of income was filed.

2.1. That when the notice for assessment proceedings were received by the assessee-society in the year 2019, immediately, they consulted CA Mr. Piyush Patel and paid him requisite fees and he assured the assessee-society that he will to look into the matter and do the needful. It has been pleaded that the members of the society being themselves not much educated and being farmers, were totally dependent upon the CA Mr. Piyush Patel for the Income-tax proceedings. However, the said CA neither put in appearance nor filed the requisite details before the Income-tax Authorities, resulting into passing of the impugned assessment orders and delay in filing the appeals before the Ld. CIT(A). It has been pleaded that the assessee-society is a co-operative agricultural society and that the income of the assessee-society is exempt from taxation and further that there was no intention to avoid any tax on the income of the assessee and that all the lapses had occurred due to the negligence of the CA appointed by the assessee-society. The Ld. Counsel for the assessee brought our attention to the application for condonation of delay that was filed before the Ld. CIT(A), wherein, each of the factual aspect has been explained in detail.

3. We, after considering the aforesaid submissions and going through the record, asked the Ld. Counsel for the assessee as to whether he can show that the assessee-society had engaged the CA for income-tax proceedings and had paid any fees to him. At this, the Ld. Counsel for the assessee had furnished before us the Profit & Loss Account for Financial Year (FY) 2019-20 ending on 31/03/2020, wherein, the expenditure of Rs.21,500/- has been shown as "INCOME TAX/SALE TAX VAKIL FEES". This shows that the assessee-society had engaged a Counsel for Income-tax proceedings. Further we note that the first hearing in the assessment proceedings was fixed by the AO on 02/09/2019 and the impugned assessment order was passed on 25/12/2019.

This shows that the assessment proceedings were conducted in the year 2019 and as per the P&L Account of the assessee-society, the assessee-society had booked expenditure as Income-tax Vakil Fees, which shows that the assessee-society duly consulted its income-tax consultant for income-tax proceedings. Therefore, the reason given by the assessee-society for non-representation before the lower authorities, seem to be justified. However, no doubt there remains negligence on the part of the assessee-society also for not pursuing its matter with the concerned CA and also not enquiring about the income-tax proceedings before the lower authorities. Even the assessee-society had not filed its return of income for the assessment years under consideration. Considering the overall facts and circumstances of the case, in our view, the interest of justice will be well-served if the assessee-society is given an opportunity to present its cases before the AO subject to burdening it with a reasonable costs of Rs.10,000/- in respect of each of the appeal against quantum additions. It is, therefore, directed that the assessee will deposit a sum of Rs.10,000/- each in respect of ITA Nos.1766 & 1769/Ahd/2025 totalling to Rs.20,000/- to the Prime Minister's National Relief Fund and furnish the proof of the deposit of the aforesaid amount before the AO. We, therefore, set aside the impugned orders in quantum related appeals i.e. ITA Nos.1766/Ahd/2025 & 1769/Ahd/2025 and restore the matter to the AO for *de novo* assessment, however, subject to deposit of costs. It is made clear that we are simply restoring the matter to the AO for *de novo* assessment and while doing so, we have not given any finding on any issue either legal or factual in the case. The AO will pass the fresh assessment orders after giving opportunity to the assessee to present its cases and thereafter by way of a speaking order in accordance with law.

4. So far as the penalty related captioned appeals are concerned, since we have set aside the impugned orders of the Ld. CIT(A) relating to quantum additions, therefore, at this stage, quantum additions have accordingly been also set aside. Therefore, the impugned penalties, at this stage, have no legs to stand and, therefore, the same are accordingly ordered to be deleted. However, it is made clear that if during or at the conclusion of assessment proceedings relating to quantum additions, the AO will be of the view that the penalties under the relevant provisions of the Act are also leviable, he will be at liberty to initiate and impose the same afresh in accordance with law.

5. With the above observations, all the appeals of the assessee are treated as allowed for statistical purposes.

Order pronounced in the Open Court on 27/11/2025.

Sd/-
(Narendra Prasad Sinha)
Accountant Member

Sd/-
(Sanjay Garg)
Judicial Member

अहमदाबाद/Ahmedabad, दिनांक/Dated 27/11/2025

टी. सी. नायर, व. नि. स. / T.C. NAIR, Sr. PS

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :

1. □ पीलर्धी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (□ पील) / The CIT(A) - (NFAC), Delhi
5. विभागीय प्रतिनिधि, आयकर □ पीलीय □ धिकरण , □ हमदाबाद /DR, ITAT, Ahmedabad.
6. गार्ड फर्ईल /Guard file.

आदेशमुसर् / BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad

