

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.465/SRT/2025

Assessment Year: (2018-19)

(Hybrid hearing)

Ghanshyambhai Sutaria, 12 Kubernagar Katargam, Chorasi, Surat - 395004	Vs.	ITO, Ward - 3(2)(1), Surat
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AADHG8777M		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Appellant by	Shri Rasesh Shah, CA
Respondent by	Shri Abhishek Gautam, Sr. DR
Date of Hearing	23/09/2025
Date of Pronouncement	04/12/2025

आदेश / ORDER

PER BIJAYANANDA PRUSETH, 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 27.03.2025 by the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi [in short 'CIT(A)'] for the assessment year (AY) 2018-19.

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

"1. On the facts and in circumstances of the case well as law on the subject, the learned CIT(A) has erred in passing ex-parte order without giving reasonable and sufficient opportunity of being heard.

2. On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in dismissing the appeal without passing speaking order.

3. On the facts and circumstances of the case as well as law on the subject, the learned assessing officer has erred in re-opening assessment u/s 147 by issuing notice u/s 148 of the IT. Act. 1961.

4. On the facts and circumstances of the case as well as law on the subject, the learned assessing officer has erred by making the addition of Rs.2,74,50,000/- u/s 69 of the Act on account of purchase of agricultural lands treating the same as unexplained investment.

5. On the facts and in the circumstances of the case as well as law on the subject, the learned AO has erred in taxing the addition of Rs.2,74,50,000/- u/s 115BBE of the act.

6. It is therefore prayed that the matter may be set aside to the file of learned CIT(A) or the order passed u/s 147 r.w.s. 144 of the Act may please be quashed and/or above addition made by the assessing officer may please be deleted.

7. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal.”

3. The facts of the case in brief are that the assessee filed his return of income for AY 2018-19 in response to the notice u/s 148 of the Act, declaring total income of Rs. Nil. The Assessing Officer (in short, 'AO') observed that the assessee had purchased an immovable property worth of Rs.2,74,50,000/- during the subject year. On verification of ITS data, it was found that the assessee had purchased immovable property of Rs.1,43,86,000/- at Kamrej, Dist – Surat. The entry of the purchase of immovable property of Rs.1,43,86,000/- was made thrice in the ITS data. Therefore, the amount of the purchase of immovable property comes to Rs.4,31,58,000/- (3 x 1,43,86,000), which is due to duplicate entries. Various notices and show cause notice u/s 148, 142(1), 143(2) of the Act were issued to the assessee, but there was only part compliance by the assessee. The assessee explained the sources through which the property purchase was funded, however, the AO observed that the appellant failed to justify the source of investment with proper supporting documents. The purchase of Rs.2,74,50,000/-

was treated as unexplained investment u/s 69 of the Act and the entire amount was added to the total income.

4. Aggrieved by the order of AO, the assessee filed appeal before the CIT(A). The CIT(A) has reproduced the order of AO at pages 3 to 8 of the appellate order. The CIT(A) issued three notices on 13.08.2024, 17.02.2025 and 03.03.2025, fixing the date of hearing on 09.09.2024, 25.02.2025 and 10.03.2025. But there was a non-compliance on the part of the appellant. The appellant has neither filed any submission nor filed any adjournment before the CIT(A). The CIT(A) relied on the decision of Hon'ble Supreme Court in case of CIT vs. B. N. Bhattacharjee & Ans., 10 CTR 354 (SC), Estate of Late Tukoji Rao Holkar vs. CIT, 223 ITR 480 (MP HC), CIT vs. Multiplan (India) Pvt. Ltd., 38 ITD 320 (Del.), M/s Chemipol vs. UOI, Excise Appeal No.62 of 2009, wherein it was held that where assessee does not want to pursue the appeal, appellate authorities have inherent power to dismiss the appeal for non-prosecution. The CIT(A) upheld that the addition made by the AO as the appellant failed to explain the nature and source of investment. Accordingly, he dismissed the 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 the appellant was not given adequate opportunity of hearing by the lower authorities. He submitted that the AO has passed an ex parte order u/s 144 of the Act. He further submitted that the CIT(A) has also passed an ex parte order u/s 250 of the Act on 27.03.2025. The Id. AR contended that assessee could

not represent his case before AO and 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 AO.

6. On the other hand, learned Senior Departmental Representative (Id. Sr. DR) for the revenue submitted that assessee was negligent during the assessment and appellate proceedings. He, however, would have no objection if the matter is restored to the file of AO.

7. We have heard both the parties and perused the materials available on record. It is an undisputed fact that the assessee has been non-cooperative to the statutory notices and the show cause notice issued to him by the AO and the CIT(A). The AO has added Rs.2,74,50,000/- as unexplained investment on an immovable property u/s 69 of the Act. The Id. AR submitted that adequate opportunity was not granted to plead its case before lower authorities. The CIT(A) has passed the order u/s 250 of the Act without discussing anything on merit, purportedly due to non-compliance by the assessee. The Id. AR submitted that another opportunity may be given in the interest of justice. Since both lower authorities have passed ex parte order, we are of the considered view that the assessee deserves one more opportunity to plead its case on merit. However, considering the unsatisfactory explanation of the appellant for non-compliance before the lower authorities, we direct that this restoration shall be subject to payment of cost of Rs.10,000/- (Rupees ten thousand only) by the appellant.

Accordingly, we hold that the interests of justice would be met in case the AO re-examine the case on merit subject to above payment of Rs.10,000/- (Rupees ten thousand only) to the credit of the “**Prime Minister’s National Relief Fund**” within one month from receipt of this order. Subject to payment of above cost, we set aside the order of CIT(A) and remit the matter to the file of AO with direction to pass fresh order 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 details and explanations as needed by the AO by not seeking adjournment without valid reasons. With this observation, the appeal of the assessee is allowed for statistical purposes.

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

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 04/12/2025.

Sd/-
(SANJAY GARG)
JUDICIAL MEMBER

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Surat

दिनांक/ Date: 04/12/2025

Sohini

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