



**IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI DIESH MOHAN SINHA, JUDICIAL MEMBER**

&

SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER

**आयकरअपीलसं./ITA No. 794/SRT/2024
(निर्धारणवर्ष / Assessment Year: (2011-12)
(Hybrid Hearing)**

Kamlesh Babubhai Patel Near Gujarati school, bhindiay, deheri, umbergaon 396170. Taluka umbergaon. Dsit-valsad , Gujrat	Vs.	Income-tax Officer, Ward-5, Vapi. Room no. 713, fortune square-II, Daman Road, Chala Vapi- 396191
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ADSPB6684L		
(Appellant)		(Respondent)

Appellant by : Shri P.M. Jagasheth, CA
Respondent by : Shri Ajay Uke, Ld. Sr. DR

Date of Hearing : 30/07/2025
Date of Pronouncement : 29/10/2025

आदेश / ORDER

PER DINESH MOHAN SINHA, JM:

Captioned appeal filed by the assessee, pertaining to Assessment Year (AY) 2011-12, is directed against the order passed by the National Faceless Appeal Centre (NFAC) dated 31.05.2024, which in turn arises out of an assessment order dated 12.12.2018 passed by Income Tax Department / Assessing Officer under section (u/s.) 143(3) r.w.s 147 of the Income Tax Act, 1961.



2. Grounds of appeal raised by the Assessee are as follows:

<i>Ground No.</i>	<i>Ground</i>	<i>Tax Effect</i>
1.	<i>The Ld. CIT(A)-NFAC erred on facts and in law in dismissing the appeal without appreciating the and statement of facts grounds of appeal submitted in Appeal and also without making any independent judgement or opinion relating to the subject matter of the original assessment order.</i>	Rs. 33,82,160/-
2.	<i>The order u/s. 250 is erroneous in respect of the facts of the case. The entire facts of the case as narrated in the order u/s. 250 is not relevant to the present case. It appears to be related to some other case. The amount of cash deposit in bank to the tune of Rs.99,03,000/-, the income of Rs.15,68,682/- from scrap sale in the order, as narrated in the order do not belong to the present appellant. Further the order states that no return of income has been filed in response to notice u/s. 148 of the I. Tax act. However the return of income for the relevant assessment year had been filed and the same has been stated in the Appeal Form No. 35 filed on 26.01.2019.</i>	



3.	<i>It appears that the matter of some other appellant has been incorporated in this order.</i>	
4.	<i>Further no notices were sent on the residential address of the appellant as submitted in the appeal.</i>	
5.	<i>We request the ITAT to remand the appeal back to the CIT Appeal for proper adjudication.</i>	
	<i>Total</i>	<i>Rs. 33,82,160</i>

3. Facts of the case:

There was information available in NMS/CIB/AIR that the assessee has deposited Rs. 33,99,500/- in cash in his saving bank account held Bank of Baroda and also made contract of Rs. 42,52,119/- for sale or purchase of stock during the year. On verification of the ITD data it was revealed that assessee has not filed return of income for AY 2011-12. During the course of assessment proceedings, on verification of the information available on record it was noticed that the assessee has deposited cash in his saving bank account with Bank of Baroda. Notice u/s 142(1) dated 08.10.2018 along with questionnaire was issued to the assessee, the assessee was requested to furnish details of cash deposit and its source alongwith supporting documents. The assessee has furnished any documentary evidences in this regard. That a show cause notice was issued to the assessee in response to notice the assessee submitted the reply stating that assessee is in business of agro base products. Sale for the year was Rs.10,12,470/- return filed on the basis of 44AD @8% of the Act. Computation of income, balance sheet, profit and loss account and bank statement filed. The taxable income of the assessee is determined as under:



Total Income as per ROI filed	Rs. 1,49,532/-
Add: As discussed in para 4 above	Rs. 42,36,013/-
Total income assessed	Rs. 43,85,545/-

4. The assessee filed an appeal against the order dated 12.12.2018 before the Ld. CIT(A) which was dismissed by order dated 31.05.2024 on technical ground.

5. The assessee challenged the legality and validity of order dated 31.05.2024 by filing an appeal before this tribunal.

6. The AR of the assessee submitted that no opportunity was given to the assessee as no notice served at the residential address of assessee, The assessee may kindly be given one opportunity to explain case before lower authority.

7. On the contrary the DR of the revenue relied on the order of Ld. CIT(A).

8. We have heard both the party and note that the assessee couldn't comply to the terms of notice issued by AO and we further note that there was no compliance with the notice before the Ld. CIT(A). We note that the Ld. CIT(A) has rejected the Appeal on the ground that column no. 9 of form 35 is not correctly filled. And further no notice was issued to assessee at his residential address which was given by assessee in form 35.

9. Considering the above facts and circumstances of the case we are of the view that matter was not properly adjudicated. We give an opportunity to the assessee to explain his case before the Ld. CIT(A). Therefore we set aside the order of the Ld CIT(a) and remand the matter back to the file of Ld. CIT(A) for fresh adjudication on merit after affording the due opportunity of being heard to the assessee. We direct the assessee to submit relevant details/ documents/evidences if any as required by the Ld. CIT(A).



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

Order pronounced in the open court on 29/10/2025.

**Sd/-
(BIJAYANANDA PRUETH)
ACCOUNTANT MEMBER**

**Sd/-
(DINESH MOHAN SINHA)
JUDICIAL MEMBER**

Rajkot

दिनांक/ Date: 29/10/2025

Copy of the Order forwarded to

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

By Order

// TRUE COPY //

Assistant Registrar/Sr. PS/PS
ITAT, Surat