

IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT
(HYBRID HEARING)

**Before: Shri T.R. Senthil Kumar, Judicial Member And
Shri Bijayananda Pruseth, Accountant Member**

**ITA No: 549/SRT/2025
Assessment Year: 2012-13**

Niravkumar Desai 87 Brahmin Faliyu, Dindoli Choryasi, Surat-394210, Gujarat PAN: AYSPD0709R (Appellant)	Vs	Income Tax Officer Ward-2(3)(1), Surat (Respondent)
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**Assessee Represented: Shri Sapnesh Sheth, Advocate
Revenue Represented: Shri Ajay Uke, Sr. D.R.**

Date of hearing : 12-11-2025
Date of pronouncement : 14-11-2025

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against the exparte appellate order dated 03.03.2025 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), arising out of the exparte assessment order passed under section 144 r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2012-13.

2. Brief facts of the case is that the assessee is an individual who has not filed Return of Income for the Asst. Year 2012-13 as the total income did not exceed basic exemption limit. The assessee sold immovable property for a consideration of Rs.29,00,000/- but not disclosed capital gain on transfer of capital asset. Therefore the assessment was reopened. The assessing officer found that the Fair Market Value as per Stamp Valuation Authority is Rs.94,08,163/-. Since the assessee failed to file return in response to 148 notice as well as six notices u/s. 142(1) and final show cause notice and the assessee failed to file any materials, evidences before the assessing officer. Therefore the Ld. A.O. added entire amount of Rs.94,08,163/- as the income of the assessee.

3. On further appeal by the assessee before Ld. CIT(A), assessee failed to cooperate which has resulted in passing exparte appellate order.

4. Aggrieved against the exparte appellate order, assessee filed appeal before this Tribunal raising the following Grounds of Appeal:

1. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income Tax (Appeals), NFAC has erred in passing ex-parte order without giving reasonable opportunity of hearing the assessee.

2. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income-tax (Appeals), NFAC has erred in confirming the action of assessing officer in reopening assessment by issuing notice u/s 148 of the I.T. Act, 1961.

3. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income-tax (Appeals), NFAC has erred in confirming the action of assessing officer in passing ex-parte order u/s 144 of the I.T. act.

4. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income-tax (Appeals), NFAC has erred in confirming the action of assessing officer in making addition of Rs. 94,08,163/- on account of long term capital gain.
 5. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income-tax (Appeals), NFAC has erred in not making reference to Departments Valuation Officer for determining the fair market value of property u/s 50C(2) of the I. T. Act, 1961.
 6. On the facts and circumstances of the case as well as law on the subject, learned Commissioner of Income Tax (Appeals), NFAC has erred in confirming the action of the assessing officer has erred in not giving any deduction towards cost of acquisition of impugned property.
 7. On the facts and circumstances of the case as well as law on the subject, learned Commissioner of Income Tax (Appeals), NFAC has erred in confirming the action of the assessing officer in taking assessee's share in property at 100% as against only 12.5% while making the addition towards long term capital gain.
 8. It is therefore prayed that above addition made by assessing officer and confirmed by Commissioner of Income-tax (Appeals), NFAC may please be deleted.
 9. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of appeal.
5. Even before us, the assessee has not filed any materials, evidences in support of its claim. However undertook to file the relevant materials before the authorities if one more opportunity of hearing be given to the assessee. Considering the submission of the assessee and the non-cooperation before lower authorities and also not filing the Return of Income in response to 148 notice, we deem it fit to impose a cost of Rs.5,000/- payable by the assessee to the Income Tax Department within two weeks of receipt of this order copy. On payment of cost and production of receipt by the

assessee, the Jurisdictional Assessing Officer is directed to redo the assessment by giving proper opportunity of hearing to the assessee.

6. In the result, the appeal filed the assessee is allowed for statistical purpose.

Order pronounced under proviso to Rule 34 of ITAT Rules, 1963 on 14 -11-2025

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Ahmedabad : Dated 14/11/2025

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
सूरत