

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER
आयकर अपील सं./ITA No.368/SRT/2024
Assessment Year: (2015-16)
(Hybrid hearing)

Pankajbhai Karamshibhai Savani, C-201, Sai Milan Residency Sudama Chowk, Mota Varachha, Surat, Surat-395006 (Gujarat) PAN No. BERPS 5347 H	Vs.	I.T.O., Ward 2(3)(2), Surat.
Appellant/ Assessee		Respondent/ Revenue

Assessee represented by	Sh Ashwin K Parekh CA
Department represented by	Shri Mukesh Jain, Sr. DR
Date of hearing	12/02/2025
Date of pronouncement	12/02/2025

Order under Section 254(1) of Income Tax Act

PER: PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by the assessee is directed against the order of the National Faceless Appeal Centre, Delhi (NFAC)/learned Commissioner of Income Tax (Appeals), [in short, the Id. CIT(A)] dated 13.02.2024 for the Assessment Year (AY) 205-16. The Id CIT(A) confirmed the action of Assessing Officer (AO) in making various addition aggregating of Rs.15.96 lacs.
2. Rival submissions of both the parties have been heard and record perused. The learned Authorised Representative (Id. AR) of the assessee submits that at the time of filing appeal before the Id. CIT(A) (in form-35), the assessee has given e-mail address as of cashailesh@hotmail.com for the purpose of service of notices etc. The Id CIT(A) has not issued notice under section 250 through such e-mail, rather notices were issued through vggodhani@rediffmail.com and copy to

TILAKRADIA@YAHOO.IN. None of the email address belong to the assessee or his representative. Resultantly, the assessee could not make compliance. To support his contention, the Id AR of the assessee filed copy of screen shot of ITBA portal showing the issuance of notice at e-mail "vggodhani@rediffmail.com and copy to TILAKRADIA@YAHOO.IN." The Id AR of the assessee submits that there was no intentional or deliberate intention for non-compliance before Id CIT(A), but due to the facts explained above. The Id CIT(A) also passed ex-party order without discussing merits of the case. The Id. AR of the assessee submits that the AO also passed assessment order under section 144 for the want of submissions. The assessee has a good case on merit and is likely to succeed if one more opportunity is allowed to the assessee to contest the case on merit. The Id AR of the assessee submits that during assessment regular accountant has left his job and not updated fresh e-mail. The Id. AR of the assessee submits that she undertakes on behalf of assessee to be more vigilant in future in complying the notices issued by the lower authorities and would file his submissions of first date of hearing by either of the lower authority. Similar ex-parte order was passed by Id CIT(A) in appeal for AY 2014-15, which was also restored back to the file of AO vide order dated 11/09/2023 in ITA No.234/Srt/2023. He prayed to restore the matter back to the file of AO.

3. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR), for the revenue submits that the assessee is habitual defaulter in making compliance and now taking excuse of non-service of notices. In case the Bench is of the view that the assessee deserves any relief, the matter may be restored

back to the file of CIT(A) only on deposit of exemplary cost and with direction to file appropriate reply and evidence to substantiate various issues.

4. We have considered the submissions of both the parties and have perused the orders of the lower authorities carefully. The Id. AR of the assessee also submitted that while filing the appeal before the Id. CIT(A), the assessee has given e-mail address as of cashailesh@hotmail.com for the purpose of service of notices etc. And that Id CIT(A) has not issued notice under section 250 through such e-mail, rather notices were issued through vggodhani@rediffmail.com and copy to TILAKRADIA@YAHOO.IN. Such email address belongs to the assessee or his representative. On careful consideration of facts and the screen shot of ITBA portal we find merit in the submissions of the AR of the assessee and find that there is sufficient cause for non-compliance before Id CIT(A) as the notices issued by Id CIT(A) were sent on different e-mail. Thus, the order passed by Id CIT(A) is set aside. Further, considering the facts that substantial rights of the assessee are involved in the present case and both the lower authorities have passed order ex-parte, the matter is restored back to the file of AO to pass assessment order on various issues/ addition afresh and in accordance with law. Needless to direct that before passing the order, the AO shall grant fair and reasonable opportunity of hearing to the assessee. The assessee is also directed to be more vigilant in future and not to cause further delay and seek adjournment without any valid reason and to furnish all the details and his submissions and evidences on various grounds of appeal raised, as soon as possible. In the result, the grounds of appeals raised by the assessee are allowed for statistical purposes.

5. In the result, this appeal of assessee is allowed for statistical purposes only.

Order announced in open court on 12th February 2025.

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Surat, Dated: 12/02/2025
**self / by author*

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Copy to:

1. Assessee
2. Revenue
3. CIT
4. DR
5. Guard File

// TRUE COPY //

By order

Sr. Private Secretary, ITAT, Surat