

**IN THE INCOME TAX APPELLATE TRIBUNAL
“DB” BENCH, SURAT**

**BEFORE SHRI SANDEEP GOSAIN, (JUDICIAL MEMBER) &
SHRI OM PRAKASH KANT, (ACCOUNTANT MEMBER)**

**I.T.A. No.828/SRT/2023 (2008-09)
I.T.A. No.829/SRT/2023 (2008-09)
I.T.A. No.830/SRT/2023 (2009-10)
I.T.A. No.831/SRT/2023 (2010-11)
I.T.A. No.832/SRT/2023 (2010-11)
I.T.A. No.833/SRT/2023 (2010-11)
I.T.A. No.834/SRT/2023 (2012-13)**

Naresh kumar Gokalchand Lodha B-104, Salashar Bhakti CHS Ltd, Venkatesh Park, Bhayandar West, Mumbai-401101 PAN: AARPL9923A	Vs.	ITO 2(3)(8) The Income Tax Office, Surat, Gujarat- 395001
(Appellant)		(Respondent)

Appellant by	Shri.PiyushChhajed
Respondent by	Shri. Mukesh Jain, CIT D.R.

Date of Hearing	09.10.2025
Date of Pronouncement	18.12.2025

ORDER

Per: SHRI. SANDEEP GOSAIN, J.M.:

The present appeals have been filed by the assessee challenging the different impugned orders passed u/s. 250 of the Income Tax Act, 1961 ('the Act'), by the learned National Faceless Appeal Centre, Delhi, ('NFAC'), for the assessment year 2008-09, 2009-10, 2010-11 & 2012-13.

2. Since all the issues involved in these appeals are common and identical, therefore, they have been clubbed, heard together and consolidated order is being passed for the sake of convenience and brevity. We shall take ITA No. **828/SRT/2025, A.Y 2008-09** as lead case and facts narrated therein.

ITA No. 828/SRT/2025, A.Y 2008-09

The assessee has raised the following grounds of appeal.

1. On the facts and circumstances of the case, the notice u/s 148 dated 27.03.2015 along with reasons if any recorded were never served on assessee and therefore the order passed u/s 144 r.w.s. 147 is bad in law.

2. The Learned Assessing Officer ought to have appreciated that there was no service of notice either u/s 148 or subsequently any notice issued during the 148 proceedings and the assessee came to know about the assessment order being passed only when demand was uploaded on the E-filing website and therefore the assessment order passed without serving the Statutory notice as required u/s 148 is bad in law.

3. The assessment order passed u/s 144 r.w.s. 147 without providing copy of reasons recorded if any before issuing the notice u/s 148 if any is bad in law.

4. The assessment order passed u/s 144 r.w.s. 147 is bad in law in absence of any details in regard to obtaining of satisfaction from the higher authority as required u/s 151 of the act.

5. The Learned Commissioner of Income Tax Appeals erred in rejecting the additional evidence submitted during the course of appellate proceedings without appreciating that the appellant had categorically mentioned that in absence of service of notices during assessment proceedings, he was not in a position to submit any evidences which infact resulted in order being passed u/s 144.

6. The Learned Commissioner of Income Tax Appeals erred in upholding addition of Rs. 67,83,934/- u/s 68 as well as alternatively u/s 69 thereby going beyond the assessment order without issuance of Show Cause Notice and thereby ignoring the provisions of natural justice.

The appellant craves the leave to add, amend, alter and/or delete any of the above grounds of appeal at or before the time of hearing.

3. All the ground raised by the assessee are interrelated and interconnected and relates to challenging the order of AO and Ld. CIT(A) in initiating and sustaining the proceedings of reassessment and consequential order passed u/s 144 r.w.s 147 of the Act and also rejecting the additional evidence submitted by the assessee during the appellate proceedings. Therefore we have decided to adjudicate these grounds through the present consolidated order.

4. As per the facts of the case assessee furnished his return of income on 30.09.2008 declaring total income of Rs. 1,40,470/-. Subsequently on the basis of information from DDIT(Inv), Mumbai to the effect that while processing the FIU information, a current A/c No. 0356200001909 was identified which was maintained with HDFC Bank, Charni Road Branch in the name of the assessee's proprietary: concern, viz. Murti Corporation. The information revealed that the assessee had utilized the above account for the deposit of high value cheques. An analysis of the detailed bank statement pertaining to the above bank account showed substantial credit entries

totalling to Rs. 67,83,934/- in the said account for the A. Y. 2007-08 relevant to the A. Y. 2008-09. On perusal of the return of income for the A. Y. 2008-09, the AO found that the assessee had shown Rs. 1,40,470/- as returned income. So the credit entries in the bank account remained unexplained in the hands of the assessee. The assessee did not appear before the AO during the assessment proceedings and the reasons put forth by the assessee for his none appearance before the AO was that he never received any notice for assessment proceedings as the assessee had shifted from the premises as mentioned in the notice and also in the assessment order.

5. As per the assessee he came to know about the assessment order only through e-filing website of the department after demand was uploaded. Later on assessee filed appeal before Id. CIT(A) against the order of assessment and also filed an application for leading additional evidences. Thereafter Ld. CIT(A) called for remand report with regard to service of notice upon the assessee and also regarding additions made by the AO. Ultimately the request of the assessee for leading additional evidence was rejected by Ld. CIT(A) by holding that creditworthiness and same day withdrawal of equal amount from the bank account had not been proved satisfactory by the assessee.

6. Be that as it may without going into the merits of the claim raised by the respective parties it is an undisputed

and admitted fact that the assessment order was passed ex-parte and assessee could not lead any evidence to substantiate its claim. Therefore bench is of the view that considering the interest of justice and keeping in view the principles of *audi alteram partem* matter be restored back to the file of AO so as to enable the assessee to contest its claim on merits by providing adequate opportunity to substantiate its claim in denovo assessment. Since the assessee was ex-parte and had not intimated the change of address to the department and also to the AO well within time in accordance with rule, therefore a cost of Rs. 5000/- each is imposed upon the assessee for delaying the proceedings, which shall be deposited in the Prime Minister Relief Fund and a copy of the receipt shall be placed on file before AO within 30 days from the date of receipt of this order. The assessee shall not seek any adjournment on frivolous grounds and shall remain cooperative during the course of proceedings.

7. Before parting, we make it clear that our decision to restore the matter back to the file of the AO shall in no way be construed as having any reflection or expression on the merits of the dispute which shall be adjudicated by the AO independently in accordance with law.

8. In the result the appeal filed by the assessee is allowed for statistical purposes.

I.T.A. No.829/SRT/2023 (2008-09)
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I.T.A. No.832/SRT/2023 (2010-11)
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9. As the facts and circumstances in these appeals are identical to ITA No. 828/SRT/2025 for the A.Y 2008-09 (except variance in days of delay) and the decision rendered in above paragraph would apply ***mutatis mutandis*** for these appeals also. Accordingly, the grounds of appeal of the present appeal also stands allowed for statistical purposes.

10. In the result, all the appeals filed by the assessee are stands allowed for statistical purposes.

Order pronounced in the open court on 18/12/2025

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

Surat:

Dated: 18/12/2025

RKR, Sr. PS