

**IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

I.T.A. No. 274/SRT/2025
(Assessment Year: 2015-16)

Jashvantiben Girishbhai Patel, AT PO Ichanpor, Tal. Olpad, Dist. Surat Surat-395005 [PAN : COEPP 9861 G]	Vs.	Income Tax Officer, Ward 2(3)(2), Surat
(Appellant)	..	(Respondent)
Appellant represented by :	Shri Ashish Modi, AR	
Respondent represented by:	Shri Ajay Uke, Sr DR	
Date of Hearing	21.01.2026	
Date of Pronouncement	22.01.2026	

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-

This appeal has been filed by the assessee against the order dated 28.12.2024 passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ('Ld. CIT (A)' in short), under Section 250 of the Income-tax Act, 1961 ('the Act' in short) for Assessment Year 2015-16.

2. The assessee has raised following grounds of appeal:-

"1. On the facts and circumstances of the case, the Ld. NFAC vide order u/s 250(6) dated 28.12.2024 rejecting the appeal filed vide form 35 for non-payment of tax payable on addition of Rs. 52,35,000/- made by the Ld. AO vide order u/s 147 r.w.s 144.

2. That the Ld. NFAC has erred in rejecting the appeal filed vide form 35 by invoking the provisions of section 249(4) without appreciating that the stipulation as to the payment of tax before filing of first appeal is only directory and not mandatory.

3. That the Ld. NFAC has erred in rejecting the appeal filed vide form 35 against the order passed by the AO u/s 147 r.w.s 144 in view of the fact that the assessee could not remit the tax payable due to financial hardship and

there is no evidence of any dishonest or improper motive on the part of the assessee.

4. That the Ld. NFAC has erred in rejecting the appeal filed vide form 35 in limine without adjudicating the case on merits.

5. That the Ld. NFAC has erred in confirming the addition of Rs. 52,35,000/- made by the AO under the head income from other sources of sale proceeds of Agricultural Land sold in which appellant has only 3.33% share which is taxable under the head income from Capital Gain.

6. That the Ld. NFAC has erred in confirming not giving deduction of cost of acquisition of impugned agriculture land sold.

7. That the Ld. NFAC has erred in confirming levying tax on above addition at the rate of normal rate instead of special rate on Long Term Capital Gain.

8. That the Ld. NFAC has erred in confirming interest charged u/s 234A/234B of the Act.”

3. The brief facts of the case are that the assessee filed its return of income for the year under consideration on 31.03.2017, declaring total income of Rs. 60,550/- and exempt income of Rs. 1,26,500/- on account of sale proceeds of agricultural land. Subsequently, the case was reopened and an assessment order under section 147 read with sections 144 and 144B dated 12.05.2023 was passed determining total income at Rs. 52,95,550/-.

4. Aggrieved, the assessee preferred an appeal before the Ld. CIT(A), who, vide impugned order dated 28.12.2024, dismissed the appeal *in limine*, without adjudicating the grounds on merits, holding that the assessee had not filed return of income and not paid the taxes.

5. On perusal of the record, we find that the Ld. CIT(A) dismissed the appeal of the assessee *in limine*, without adjudicating the grounds raised on merits and without correctly appreciating the applicability of section 249(4) of the Act. Considering the fact that the appeal was disposed of without examination of the issues on merits, and keeping in view the principles of natural justice, we deem it

- 3-

appropriate, in the interest of justice, to set aside the impugned order and restore the matter to the file of the Ld. CIT(A) for fresh adjudication *de novo*, in accordance with law. The Ld. CIT(A) shall consider the fact that the returned income was Rs. 60,550/- and that no tax was payable thereon, and shall adjudicate all grounds raised by the assessee on merits after affording reasonable opportunity of being heard. The assessee is directed to file all necessary submissions and supporting documents and to comply with notices issued by the authority without seeking unnecessary adjournments.

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

This Order pronounced in Open Court on 22.01.2026

Sd/-

**(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Surat; Dated 22/01/2026

btk

Sd/-

**(DR. B.R.R. KUMAR)
VICE-PRESIDENT**

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण ,/DR,ITAT, Surat,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

TRUE COPY

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण
ITAT, Surat