

आयकर अपीलीय अधिकरण, सूरत न्यायपीठ, सूरत
IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER AND
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER
आयकर अपील सं./ITA Nos. 385 to 387/SRT/2025 (AY 2021-22)
(Physical hearing)

Shardaben Dhanjibhai Savani 74-75, 3 rd Floor Om Industries-8, Umbhel Road, Parabgam, Kamrej, Surat-394 101 [PAN : KIYPS 3244 C]	बनाम/ Vs	Assessment Unit Income-tax Department jurisdictional AO/ Income Tax Officer, Ward-2(3)(4) Surat, Aaykar Bhawan, Majura Gate, Surat- 395 001
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से /Assessee by	Shri P.M. Jagasheth, CA
राजस्व की ओर से /Revenue by	Shri Ajay Uke, Sr-DR
सुनवाई की तारीख/Date of hearing	15.09.2025
उद्घोषणा की तारीख/Date of pronouncement	28.11.2025

Order under section 254(1) of Income Tax Act

PER DINESH MOHAN SINHA, JUDICIAL MEMBER:

Captioned three appeals filed by the assessee, pertaining to same Assessment Year (AY), that is, 2021-22, are directed against the separate orders passed by the National Faceless Appeal Centre, Delhi/ Learned Commissioner of Income Tax (Appeals), [in short "the Ld. CIT(A)/NFAC"], under section 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act"), three orders of Ld.CIT(A) are dated 16.12.2024 and other two order of CIT(A) dated 06.03.2025 & 28.01.2025. In ITA No.385/SRT/2025, the assessee has challenged the unexplained addition in quantum assessment. In ITA No.386/RJT/2025, the assessee has committed each of default for non-compliance of notice during assessment proceedings, therefore, assessing officer imposed penalty u/s 271A(1)(d) of the Act under section 144 r.w.s 144B of Income-tax Act, 1961 ('the Act') on 17.12.2022.

2. All the three appeals are interconnected, and relate to one assessee, for same AY i.e., 2021-22, therefore with the consent of parties, these appeals have been clubbed and heard together and a consolidated order is being passed, to avoid the conflicting decisions.

ITA No.385/SRT/2025 (AY 2021-22)

3. Perusal of record show that there is delay of 32 days in filing appeal before Tribunal. The assessee has filed application giving reasons for delay in filing appeal before Tribunal. The assessee explained that the delay of 32 days was occurred that there was some miscommunication with her Authorized Representative. Therefore, delay of 32 days in filing the appeal be condoned. The Ld. Sr-DR appearing for the revenue has no serious objection, hence the delay of 32 days in filing the appeal is hereby condoned and the main case is taken for adjudication.

4. The brief facts of the case is the assessee filed her return of income declaring total income of Rs.4,82,080/- on 16.12.2021. Subsequently, case was selected for complete scrutiny under CASS because of large import and export and the return filed by assessee is non-business income. Several notices issued by the AO but there was non compliance by assessee, resultantly assessment completed with addition of Rs.1,42,08,480/- and assessed income at Rs.1,46,90,560/-. Till before Ld. CIT(A) there was no submission filed by the assessee. In response to notice issued by Ld. CIT(A) and in terms of the ratio of the judgments of the Hon'ble Apex Court and the various Hon'ble High Courts including the judgment of Hon'ble Supreme Court in the case of CIT vs. B.N. Bhattacharjee and Another (10 CTR 354), hence, appeal is dismissed vide order dated 16.12.2024.

5. Against the order of Ld. CIT(A) the assessee has filed present appeal before the Tribunal. The Ld. AR submitted that assessee could not get due opportunity to explain her case before lower authorities. The Ld. AR submitted before us that all the hearing notices were been sent by e-mail to the assessee, however, in Form-35, very specifically the assessee stated the notices not to be sent through e-mail. Thus, the assessee was not served with any physical notice of hearing, the assessee could attend the appellate proceedings before NFAC. In the interest of principles of natural justice the assessee be given one opportunity by setting aside the ex -arte order passed by the NFAC.

6. On the other hand, Ld. Sr-DR submitted that even the assessment order is an ex parte order and assessee has not co-operated with the Department and also not appeared before the appellate authority in spite of various opportunities was given. Therefore, the appeal is liable to be dismissed and concurrent findings of the lower authorities does not require any interference.

7. We have heard both the parties and gone through the materials available on record. Upon perusal of record, we find that AO as well as Ld. CIT(A) both issued notices but assessee not complied with any of the notices, however, the plea of the assessee that Form-35 column-17 where it is mentioned the address "74-75, #RDFLOOR, OM INDUSTRIES-8, UMBHEL ROAD, Chorasi, Mota Varachha S.O. SURAT, Gujarat, India-394101" and the notice sent to the physical copy on the above address. However, there was no notice sent on this above address by the Ld. CIT(A). We note that assessee was not co-operated with the Department due to Form-35 address. On account of non-compliance attitude of the assessee a cost of Rs. 5000/-

is imposed on the assessee. Accordingly, we hold that the interests of justice would be met, if the Assessing Officer re-adjudicates the entire issue afresh subject to payment of cost of **Rs.5,000/- (Rupees five thousand only)** by the assessee to the credit of the "Prime Minister Relief Fund" within 2 weeks from receipt of this order. If the assessee makes default in making the payment of cost then the consequential proceedings would be deemed, as vacation of our instant remand order with a direction to adjudicate the issue afresh in accordance with law and assessee is permitted to furnish additional evidences, if any, as and when called for, by the Assessing Officer. We set aside the order of CIT(A) and remit the matter back to the file of Assessing Officer. With these directions, the grounds of appeal raised by the assessee are allowed for statistical purposes.

8. In the result, assessee's appeal ITA No.385/SRT/2025 is allowed for statistical purposes in terms of our aforesaid observations.

ITA No.386/SRT/2025 (AY: 2021-22)

9. Considering the facts that the additions in the quantum assessment is restored back to the file of AO, therefore, the penalty levied in ex-parte order u/s 271AAC(1) is also restored to for fresh adjudication after deciding the quantum issue in accordance with law. In the result, the ground of appeal raised in this appeal is allowed for statistical purposes.

10. In the result, assessee's appeal ITA No.386/SRT/2025 is allowed for statistical purposes.

ITA No.387/SRT/2025 (AY: 2021-22)

11. We have heard both the parties and perused the materials available on record. Before us, Ld. Counsel for the assessee submitted that due to mistake of the Ld. Counsel of the assessee, the notices of hearing issued during assessment proceedings were not complied by assessee, under consideration. The assessee is female and she does not know the income tax proceedings and she solely dependent on her tax consultant. We note that the tax consultant has committed the mistake and did not reply, to the first notice, issued during assessment proceedings. Therefore, we note that penalty u/s 271(1)(d) of the Act should be imposed for one time default only; as the assessee made subsequent compliance. Therefore, we delete penalty for two defaults and I direct the Assessing Officer to impose Rs.10,000/-, as a penalty u/s 271(1)(d) of the Act, on the assessee. This ground of assessee's appeal is partly allowed.

12. In the result, assessee's appeal ITA No.387/SRT/2025 is partly allowed.

13. In combine result, ITA No.385 and 386/SRT/2025 are allowed for statistical purposes whereas appeal of assessee in ITA No.387/SRT/2025 is partly allowed.

Order pronounced in the open court on 28/11/2025.

Sd/-
(BIJAYANANDA PRUSETH)
लेखा सदस्य/Accountant Member

Sd/-
(DINESH MOHAN SINHA)
न्यायिक सदस्य/Judicial Member

सूत / Surat Dated: 28/11/2025

Dkp Outsourcing Sr.P.S*

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

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, सूरत/ DR, ITAT, SURAT
- गार्ड फाईल/ Guard File

By order/आदेश से,

// True Copy //

सहायक पंजीकार
आयकर अपीलीय अधिकरण, सूरत