

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, AHMEDABAD**

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER
& SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

I.T.A. No.2653/Ahd/2025
(Assessment Year: 2020-21)

Vimarsh Prakashbhai Vasavada, C-17, Tirth Villa, Nr. Shilpan Bliss Nr. Navarachana University, Vasna Bhyali Canal Road, Bhaily S.O., Vadodara-391410	Vs.	Income Tax Officer, Ward-1(2)(2), Vadodara
[PAN No.ACHPV2543C]		
(Appellant)	..	(Respondent)

Appellant by :	Ms. Amrin Pathan, AR
Respondent by:	Shri Rignesh Das, CIT-DR

Date of Hearing	12.02.2026
Date of Pronouncement	17.02.2026

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Centre (in short “NFAC”), Delhi vide order dated 20.11.2025 passed for A.Y. 2020-21.

2. The assessee has taken the following grounds of appeal:

“Ex-parte Order:

1. *The learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi “CIT(A)” erred in fact and in law in passing an ex-parte order.*
2. *The learned CIT(A) erred in fact and in law in sending the notice of hearing to an old email address and thus there was no valid service of notice.*
3. *The learned CIT(A) erred in fact and in law in passing the order without granting proper opportunity of being heard.*

Addition u/s 69A – Unexplained Money – Rs. 25,12,46,239

4. *The learned CIT(A) erred in fact and in law in confirming the action of the learned Assessment Unit, Income Tax Department, National Faceless Assessment Centre, Delhi ("the AO") in making addition of Rs. 25,12,46,239 u/s 69A of the Income Tax Act, 1961 ("the Act").*

5. *The learned CIT(A) erred in fact and in law in confirming the action of the learned AO in invoking provisions of section 69A of the Act and thereby making addition of Rs.25,12,46,239.*

6. *The learned CIT(A) erred in fact and in law in confirming the action of the learned AO in treating sale consideration received from transfer of membership rights as unexplained money u/s 69A despite the fact that income from transfer of membership rights was duly offered to tax as income under the head "Capital Gains" in the return of income.*

Other Grounds:

7. *The learned CIT(A) erred in fact and in law confirming the action of the learned AO in denying the deduction claimed u/s 54F of the Act amounting to Rs. 2,18,97,803.*

8. *The learned AO erred in fact and in law in levying interest u/s 234B of the Act.*

9. *The learned AO erred in fact and in law in levying interest u/s 234C of the Act.*

10. *The learned AO erred in fact and in law in initiating penalty proceedings u/s 271AAC(1) of the Act.*

11. *Your appellant craves the right to add to or alter, amend, substitute, delete or modify all or any of the above grounds of appeal."*

3. The brief facts of the case are that the assessee filed the return of income for the Assessment Year 2020-21 declaring a total taxable income of ₹25,75,58,300/-. The case was selected for scrutiny and assessment was completed under section 143(3) of the Income-tax Act, 1961 ("the Act"). During the course of assessment proceedings, the Assessing Officer noticed that the assessee had disclosed Long Term Capital Gains in Schedule CG and had shown sale consideration of ₹25,12,46,239/- arising mainly from transfer of shares in a foreign company and had also claimed deduction under section

54F of the Act amounting to ₹2,18,97,803/-. According to the Assessing Officer, the assessee failed to satisfactorily establish the nature of the capital asset, the cost of acquisition, the genuineness of the transaction and the source of investment. The Assessing Officer held that the assessee could not substantiate the claim of long-term capital gains and exemption under section 54F with proper evidence. The Assessing Officer therefore treated the entire sale consideration of ₹25,12,46,239/- as unexplained money under section 69A of the Act and taxed the same under section 115BBE. Consequently, an addition of ₹25,12,46,239/- was made to the returned income. Aggrieved by the assessment order, the assessee carried the matter in appeal before the Commissioner of Income-tax (Appeals).

4. Before the CIT(Appeals), the assessee raised several grounds challenging the validity of the assessment order as well as the addition made. In the grounds relating to legality of the assessment, the assessee contended that the assessment order was bad in law as it was passed in violation of the provisions of section 144B of the Act and the relevant CBDT Notification, and that the Assessment Unit was not an Assessing Officer in the eyes of law and hence it did not have jurisdiction. The assessee further submitted that the mandatory procedure prescribed under section 144B of the Act was not followed and that the assessment was completed without considering all the material placed on record. The CIT(Appeals), however, noted that despite issuance of multiple notices during the appellate proceedings, the assessee did not effectively respond or file any written submissions or evidences to substantiate these legal grounds. In the absence of any supporting material

and proper prosecution of the appeal, the CIT(Appeals) declined to accept the challenge to the validity of the assessment and rejected these grounds.

5. On the merits of the addition under section 69A, the assessee contended before CIT(Appeals) in the grounds of appeal that the Assessing Officer erred in treating the long-term capital gains as unexplained money, that the nature and source of funds were duly explained during the assessment proceedings, and that the addition was made without controverting the documentary evidence filed by the assessee. The assessee also contended that the Assessing Officer proceeded on assumptions, surmises and conjectures and made irrelevant observations. The CIT(Appeals), however, recorded that during the appellate proceedings **the assessee failed to submit any documentary evidence, details or explanations to substantiate the claim of capital gains, cost of acquisition, transfer of the asset, receipt of sale consideration and related facts.** The appeal had remained pending **since 2022 and repeated opportunities were granted, but the assessee either sought adjournments or did not respond to the notices.** In view of the complete non-compliance, the CIT(Appeals) held that there was no material available on record to controvert the findings of the Assessing Officer. The CIT(Appeals), relying on various judicial precedents viz the decision of the Madhya Pradesh High Court in *Estate of Late Tukojirao Holkar vs. CWT* (223 ITR 480), the Punjab & Haryana High Court in *New Diwan Oil Mills vs. CIT* (296 ITR 495) and the judgment of the Supreme Court of India in *CIT vs. B. Bhattachargee & Another* (118 ITR 461), observed that filing of an appeal alone is not sufficient and the appellant must effectively pursue the same. At the same time, the CIT(Appeals) noted that the appeal had to be

decided on the basis of material available on record. Considering the failure of the assessee to furnish any evidence, the CIT(Appeals) upheld the action of the Assessing Officer in treating the sale consideration as unexplained money under section 69A of the Act and confirming the addition of ₹25,12,46,239/-.

6. With regard to the ground relating to denial of deduction under section 54F of the Act amounting to ₹2,18,97,803/-, the CIT(Appeals) observed that since the basic claim of capital gains itself was not substantiated and the assessee failed to furnish any proof regarding purchase or construction of the residential house, the Assessing Officer was justified in denying the deduction. Accordingly, the CIT(Appeals) also dismissed this Ground of Appeal.

7. As regards the ground relating to allowance of foreign tax credit of ₹3,28,99,152/-, the CIT(Appeals) noted that no details or supporting documents were filed during the appellate proceedings to establish eligibility for such credit. In the absence of any material on record, the claim was not allowed.

8. The grounds challenging levy of interest under sections 234A, 234B and 234C were held to be consequential in nature and were dismissed accordingly. Similarly, the ground relating to initiation of penalty proceedings under section 271AAC(1) was held to be premature and not requiring adjudication at this stage.

9. In view of the above findings and considering the **consistent non-appearance and non-compliance on the part of the assessee**, the CIT(Appeals) dismissed the appeal and confirmed the assessment order passed by the Assessing Officer.

10. The assessee is in appeal before us against the order passed by CIT(Appeals) dismissing the appeal of the assessee.

11. Before us, the Counsel for the assessee submitted that CIT(Appeals) was ex-parte since all e-mail communications were sent to the old e-mail ID of tax consultant who therefore was unable to intimate the assessee regarding to the proceedings before CIT(Appeals). The Counsel for the assessee submitted that evidently e-mail ID as mentioned in Form 35 and the e-mail ID where notices were sent were different.

12. In response, the Ld. DR placed reliance on the observations made by the Assessing Officer and Ld. CIT(Appeals) in their respective orders.

13. We have carefully considered the rival submissions, perused the material available on record and examined the orders passed by the Assessing Officer as well as the Commissioner of Income-tax (Appeals). It is evident from the record that the assessment was completed by treating the entire sale consideration arising from alleged long-term capital gains as unexplained money under section 69A of the Act and by denying the consequential claims of deduction under section 54F of the Act and foreign tax credit. It is also equally evident that during the appellate proceedings before the CIT(Appeals), the assessee did not comply with the notices issued by the

CIT(Appeals). The CIT(Appeals) has specifically recorded that the appeal was pending since 2022, that several notices were issued fixing the appeal for hearing, **that on some occasions adjournments were sought and on several occasions there was no response at all, and that till the date of passing of the appellate order no documentary evidence, details or explanations were filed by the assessee to substantiate the grounds of appeal.** Thus, there is clear and recorded non-compliance on the part of the assessee before the CIT(Appeals).

14. At the same time, before us, the assessee has taken a plea that the order of the CIT(Appeals) was passed ex parte as the notices were allegedly sent to an old e-mail ID of the tax consultant and, therefore, the assessee could not effectively participate in the appellate proceedings. However, this plea cannot be accepted since the assessee had sought adjournment before CIT(Appeals) and was well aware about the on-going proceedings.

15. Considering the totality of facts and circumstances of the case, we are of the view that the matter involves substantial issues relating to the nature of capital gains, applicability of section 69A of the Act, allowability of deduction under section 54F of the Act and claim of foreign tax credit, which require proper verification of facts and examination of documentary evidence. In the interest of justice, these issues ought to be adjudicated on merits after granting another opportunity of being heard to the assessee.

16. Accordingly, while taking note of the evident non-compliance on the part of the assessee as recorded by the CIT(Appeals), and at the same time considering the quantum of additions made, we deem it appropriate to set

aside the impugned order passed by the CIT(Appeals) in the interest of justice. Accordingly, the matter is restored to the file of the CIT(Appeals) for de-novo consideration in accordance with law. The CIT(Appeals) shall adjudicate all the grounds raised by the assessee on merits, after affording adequate opportunity of being heard to the assessee and after calling for a remand report or further verification from the Assessing Officer, if considered necessary.

17. We make it clear that the assessee shall fully cooperate in the appellate proceedings and shall file all relevant documents, evidences and explanations in support of its claims. In case of any further non-compliance or failure on the part of the assessee to avail the opportunity so granted, the CIT(Appeals) shall be at liberty to decide the appeal on the basis of material available on record in accordance with law.

18. **The assessee is also directed to pay cost of Rs. 10,000/- on account of consistent non-compliance and non-cooperation to be deposited with Prime Ministers Relief Fund and produce necessary proof before the CIT(Appeals) at the time of hearing.**

19. With these observations, the appeal of the assessee is allowed for statistical purposes subject to payment of cost.

This Order is pronounced in the Open Court on

17/02/2026

Sd/-

**(NARENDRA P. SINHA)
ACCOUNTANT MEMBER**

Ahmedabad; Dated 17/02/2026

TANMAY, Sr. PS

Sd/-

**(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER**

TRUE COPY

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, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad