

आयकर अपीलीय अधिकरण, सूरत न्यायपीठ, सूरत ।
IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT
[conducted through Hybrid mode]

श्री संजय गर्ग, न्यायिक सदस्य एवं
श्री बिजयमन्दप्रुसेथ, लेखा सदस्य के समक्ष।

Before Shri Sanjay Garg, Judicial Member And
Shri Bijayananda Pruseth, Accountant Member

आयकर अपील सं./ITA No.905/SRT/2024
निर्धारण वर्ष /Assessment Year : 2017-18

Kanan Anilkumar Patel 92, Bhaganagar Society Near Gautam Park Amroli Sayan Road Surat - 394 107	<u>बनाम/ v/s.</u>	The Income Tax Officer Ward-2(3)(2) Surat - 395 001
स्थायी लेखा सं./PAN: ARGPP 6569 E		

(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
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Assessee by :	Shri Sapnesh Sheth, Advocate
Revenue by :	Shri Ajay Uke, Sr.DR

सुनवाई की तारीख/Date of Hearing : 19/11/2025
घोषणा की तारीख /Date of Pronouncement: 17/02/2026

आदेश/O R D E R

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'CIT(A)'] dated 09/10/2023 for the Assessment Year (AY) 2017-18.

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

"1. On the facts and circumstances of the case as well as law on the subject, the learned commissioner of Income Tax(Appeals), NFAC has erred in passing ex-parte order without giving finding on merits of the case.

2. On the facts and circumstances of the case as well as law on the subject, the learned commissioner of Income Tax (Appeals), NFAC has erred in confirming the action of

assessing officer in making addition Rs. 27,40,000/-u/s 68 as unexplained cash credit.

3. On the facts and circumstances of the case as well as law on the subject, the learned commissioner of Income Tax(Appeals), NFAC has erred in confirming the action of assessing officer in invoking provisions of section 115BBE of the I.T. act and levying surcharge @25% which is not applicable on above addition.

4. It is therefore prayed that above addition made by assessing officer and confirmed by Commissioner of Income-tax (Appeals) may please be deleted.

5. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal."

3. The appeal of the assessee is time-barred by approximately 8 months, however, no note has been put by the Registry in this respect. A separate application for condonation of delay in filing the appeal has been filed, wherein, it has been pleaded that the Ld. CIT(A) sent the notices on a different email and not at the email mentioned by the assessee in appeal form No.35, resulting into passing of the *ex-parte* order by the Ld. CIT(A). It has also been submitted that even the impugned order of the Ld. CIT(A) was not available on income-tax Portal. The assessee had filed grievance petition, in this respect and, thereafter, the copy of the order of the Ld. CIT(A) was made available to the assessee. The Ld. Counsel for the assessee has further brought our attention to the impugned order of the Ld. CIT(A) to show that the Ld. CIT(A) has dismissed the appeal of the assessee for want of prosecution without giving any finding on merits. He, therefore, has submitted that the matter may be restored to the file of the Ld. CIT(A) for decision of the appeal of the assessee on merits.

4. The Ld. DR could not rebut the aforesaid factual position on record.

5. Considering the rival submissions, in our view, the interests of justice will be well-served if the assessee be given an opportunity to present his case

before the Ld. CIT(A). Accordingly, the impugned order of the Ld. CIT(A) is hereby set aside and matter is restored to the file of the Ld. CIT(A) with a direction to decide the appeal of the assessee afresh on merits. The Ld. CIT(A) will give an opportunity to the assessee to present his case and furnish the necessary details and evidences. The Ld. CIT(A), if so require, may call upon the remand report from the AO. Thereafter, the Ld. CIT(A) will decide the appeal of the assessee in accordance with law. The assessee will remain vigilant and promptly respond to the notices issued by the Ld. CIT(A) and furnish the necessary details and evidences before the Ld. CIT(A).

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

**Order is pronounced under provision of Rule 34 of ITAT Rules, 1963
on 17/02/2026.**

**Sd/-
(Bijayananda Pruseth)
Accountant Member
दिनांक/Dated 17/02/2026**

**Sd/-
(Sanjay Garg)
Judicial Member**

टी. सी. नायर, व. नि. स. / T.C. NAIR, Sr. PS

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

1. ँपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (ंपील)/ The CIT(A)- (NFAC), Delhi
5. विभागीय प्रतिनिधि, आयकर ँपीलीय ँधिकरण , सूत /AR, ITAT, Surat/Ahmedabad.
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार (Asstt. Registrar)
आयकर ँपीलीय ँधिकरण, ITAT, Surat/Ahmedabad