

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

श्री संजय गर्ग, न्यायिक सदस्य एवं
श्री नरेन्द्र प्रसाद सिन्हा लेखा सदस्य के समक्ष।

Before Shri Sanjay Garg, Judicial Member And
Shri Narendra Prasad Sinha, Accountant Member

आयकर अपील सं./ITA No. 775/SRT/2025
निर्धारण वर्ष /Assessment Year : 2017-18

Vaibhav Corporation 114/2/1, Vaibhav Corporation Dabholi, Katargam Surat - 395 004	<u>बनाम</u> / <u>v/s.</u>	The Income Tax Officer Ward-3(2)(1) Surat 0 395 001
स्थायी लेखा सं./PAN: AANFV 6268 J		
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
Assessee by :	Ms. Chaitali Shah, CA	
Revenue by :	Shri Ajay Uke, Sr.DR	

सुनवाई की तारीख/Date of Hearing : 10/12/2025
घोषणा की तारीख /Date of Pronouncement: 09/03/2026

आदेश/ORDER

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 21/05/2025 passed u/s.250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for the Assessment Years (AYs) 2017-18.

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

"1. On the facts and circumstances of the case as well as law on the 1 subject, Ld. CIT(A) has erred in passing ex-parte order without giving reasonable and sufficient opportunity of being heard.

2. On the facts and circumstances of the case as well as law on the subject, the Ld. CIT(A) has erred in dismissing the appeal without passing speaking order.

3. On the facts and circumstances of the case as well as law on the subject, assessing officer has erred in re-opening assessment u/s. 147 by issuing the notice u/s. 148 of the L.T. Act, 1961.

4. On the facts and circumstances of the case as well as law on the subject, the jurisdictional assessing officer has erred in issuing notice u/s 148A(b) and passing the order u/s 148A(d) when it is R actually required to be passed by the Assessment Unit (NFAC).

5. On the basis of facts and circumstances of the case, as well as the law on subject, the assessing officer has erred in making addition of Rs. 37,22,000 u/s. 69A on account of alleged unexplained money.

6. On the facts and circumstances of the case, as well as the law on the subject, the assessing officer has erred in taxing the addition by taking the rate @77.25% by attracting S. 115BBE instead of taxing as per normal tax slab. The addition if any that may be confirmed should be taxed as business income.

7. Even otherwise on the facts and circumstances of the case as well as law on the subject, the assessing officer has erred in taxing the income u/s 115BBE @ 77.25% in a retroactive manner by applying the duly substituted S.115BBE inserted retrospectively instead of taxing it at 35.54% as per the old provisions of S.115BBE.

8. It is therefore prayed that the assessment framed may please be set aside to the file of the Ld. CIT(A) OR assessing officer and/OR the order passed u/s. 147 r.w.s. 144 r.w.s. 144B of the I.T. Act may please be quashed and/OR addition made by assessing officer may please be deleted.

9. Appellant craves leave to add, alter OR DELETE any ground(s) either before OR in the course of assessment proceedings."

3. At the outset, the Ld. Counsel for the assessee has invited our attention to the impugned order of the Ld. CIT(A) to submit that the same is an ex-parte order of the Ld. CIT(A). The Ld. Counsel for the assessee has submitted that the Ld. CIT(A) did not send the notices of hearing at the email-id given

in the appeal Form No.35, rather at a different email-id, hence, the notices of hearing sent by the Ld. CIT(A) did not come to the notice of the assessee. Therefore, the case of the assessee remained unrepresented before the Ld. CIT(A) resulting into the passing of the impugned ex-parte order of the Ld. CIT(A). The Ld. Counsel, in this respect, has relied upon the copy of the notice sent by the Ld. CIT(A) as downloaded from the Income-tax Portal which shows that the notices of hearing were not sent by the Ld. CIT(A) at the given email-id in appeal Form No.35.

4. Since the Ld. Counsel for the assessee has demonstrated that the notices of hearing was sent by the Ld. CIT(A) at different email-id, therefore, the assessee could not represent its case before the Ld. CIT(A). In view of this, the impugned order of the Ld. CIT(A) is set aside and the matter is restored to the file of Ld. CIT(A) for passing the appellate order afresh in accordance with law, after giving due opportunity to the assessee to present its case.

5. With the above observations, the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the Open Court on 09/03/2026.

**Sd/-
(Narendra Prasad Sinha)
Accountant Member**

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

अहमदाबाद / Ahmedabad, दिनांक / Dated 09/03/2026

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

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 ,सूरत /AR, ITAT, Surat/Ahmedabad.
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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