

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE MS SUCHITRA RAGHUNATH KAMBLE, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1281/SRT/2024

Assessment Year: (2012-13)

(Hybrid Hearing)

Anupam Shailesh Syal, 103, 104 Jay Vijay Park, Near Sardar Bridge, Adaja, Surat-395009	Vs.	ITO, Ward – 3(2)(6), Surat
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: ANDPS7890N		
(Appellant)		(Respondent)

Appellant by	Shri Kiran K. Shah, CA
Respondent by	Ms. Neerja Sharma, Sr. DR
Date of Hearing	05/06/2025
Date of Pronouncement	21/07/2025

आदेश / O R D E R

PER BIJAYANANDA PRUSETH, AM:

This appeal by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act'), dated 14.10.2024 by the Commissioner of Income-tax (Appeals)/Addl/JCIT(A)-1, Guwahati [in short 'CIT(A)'] for the Assessment Year (AY) 2012-13.

2. Grounds of appeal raised by the assessee are as under:

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

2. The Id Addl/JCIT(A)-1, Guwahati has erred and was not just and proper on the facts of the case and in law in confirming the addition of Rs.11,16,526/-.

3. Prayer-

3.1 The addition may be kindly deleted.

3.2 Personal hearing may be granted.

3.3 Any other relief that your honours may deem fit may be granted

4. The appellant craves leave to add, amend, modify, alter or delete any the grounds at the time of hearing.”

3. The facts of the case in brief are that the assessee had not filed her return of income for the AY.2012-13 and the assessee is identified as non-filer in the NMS System. From the AIR/CIB information, the Assessing Officer (in short, 'AO') noticed that the assessee has made different stock transactions totalling to Rs.11,16,526/- during the year under consideration. The AO issued notice u/s 133(6) of the Act on 04.03.2019 to submit details of the above transactions, but the assessee had failed to file reply. In absence of reply, the total transactions of Rs.11,16,526/- was treated as undisclosed and unexplained income, which has escaped assessment within the meaning of section 147 of the Act. Subsequently, the case was re-opened after taking necessary approval of the Id. PCIT-3, Surat by issuing notice u/s 148 of the Act on 30.03.2019. In response to the notice, the assessee filed her returned of income on 20.06.2019, declaring total income of Rs.18,340/-. Various notices and show cause notice were issued to the assessee to submit details, but the assessee had not complied with. In absence of details / explanation, the AO added the total income of Rs.11,16,526/- as undisclosed and unexplained income. The AO assessed the total income of Rs.11,34,870/- against the returned income of Rs.18,340/-.

4. Aggrieved by the order of AO, the assessee filed appeal before the CIT(A). The CIT(A) reproduced the order of AO passed u/s 143(3) r.w.s. 147 of the Act, which is at para 4.2 of the appellate order. The CIT(A) issued notices of hearing on 24.02.2021, 25.09.2024 and 04.10.2024, fixing the date of hearings on 03.03.2021, 02.10.2024 and 10.10.2024. The assessee failed to comply with the notices. Hence, the CIT(A) observed that assessee is not interested in pursuing the appeal. The notices were sent to the designated e-mail address provided by the appellant. Therefore, the CIT(A) has decided the appeal on the basis of the materials available on record including the assessment order. Despite opportunities given to the appellant, no such corroborative evidence was submitted in support of grounds of appeal raised by her. The CIT(A) relied upon the decisions of CIT vs. B. N. Bhattacharya, 118 ITR 461 (SC), M/s Chemipol vs. UOI, Central Excise Appeal No. 62 of 2009 (Bombay), Dr. P. Nalla Thampy vs. Shankar, [(1984 (Supp) SCC 63 (SC)], New India Assurance vs. Srinivasan (2000) 3 SCC 242, Whirlpool of India Ltd. vs. DCIT, ITA No.2006/Del/2011, Chandha Finlease Ltd. vs. ACIT, ITA No.3013/Del/2011, CIT vs. Gold Leaf Capital Corporation Ltd., ITA No.798 of 2009 (Delhi) and held that where the assessee had not made any compliance, the Tribunal can exercise its inherent power to dismiss the appeal for non-prosecution. The CIT(A) noticed that the appellant had neither furnished any details before the AO nor the CIT(A). The appellant has brought nothing on the record which

suggests any contravention made by the AO. Hence, the CIT(A) dismissed the appeal.

5. Further aggrieved by the order of CIT(A), the assessee has filed present appeal before the Tribunal. The learned Authorized Representative (Id. AR) of the assessee submitted that the CIT(A) passed the order u/s 250 of the Act on 14.10.2024 without hearing the assessee in violation of the principles of natural justice. The Id. AR filed an affidavit of the appellant where it is stated that she is a housewife and her income-tax matter was looked after by her husband, who is an NRI doing job in Saudi Arabia. As her husband was outside India, details could not be filed before AO and CIT(A). Therefore, Id. AR contended that one more opportunity should be given to the assessee in the interest of justice to plead her case before the CIT(A). He undertakes to be vigilant and furnish explanation and details expeditiously.

6. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR) of the revenue supported the order of lower authorities. He submitted that during the appellate proceedings, the assessee was negligent and non-cooperative, due to which the additions were confirmed by CIT(A). However, he submitted that appropriate cost may be imposed upon the assessee, if the matter is restored to CIT(A).

7. We have heard both the parties and perused the materials available on record. It is an undisputed fact that the assessee has been non-cooperative to the statutory notices and the show cause notice issued to

him by the AO and the CIT(A). It is further seen that assessee had not filed her original return of income of AY.2012-13, though there were transactions of stock worth Rs.11,16,526/-. The AO added the entire transactions and treated as undisclosed and unexplained income. The CIT(A) passed the order u/s 250 of the Act without discussing anything on merit, which is in clear violation of the provisions under sub-section (6) of section 250 of the Act. Considering the facts of the case, we are of the view that the principles of natural justice would call for giving another opportunity of hearing to the assessee. Accordingly, we hold that the interests of justice would be met in case the CIT(A) re-adjudicates the entire issue afresh subject to payment of cost of Rs.10,000/- (Rupees ten thousand only) by the assessee to the credit of the **“District Legal Services Authority, Surat”** within three weeks from receipt of this order. Subject to payment of above cost, we set aside the order of CIT(A) and remit the matter to the file of CIT(A) with a direction to pass fresh appellate order in accordance with law after granting adequate opportunity of hearing to the assessee. The assessee is directed to be more vigilant and diligent and to furnish all details and explanations as needed by the CIT(A) by not seeking adjournment without valid reasons. With these directions, the grounds of appeal raised by the assessee are allowed for statistical purposes.

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

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963

on 21/07/2025.

Sd/-
(SUCHITRA R. KAMBLE)
JUDICIAL MEMBER

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Surat

दिनांक/ Date: 21/07/2025

SAMANTA

Copy of the Order forwarded to:

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, Surat
6. Guard File

// TRU COPY //

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Surat