



**आयकर अपीलीय अधिकरण, सूरत न्यायपीठ, सूरत ।**  
**In The Income Tax Appellate Tribunal, SMC,**  
**Surat Bench, Surat**  
**Before Dr. Arjun Lal Saini, Accountant Member**

आयकरअपीलसं./ITA No. 678/SRT/2025

(निर्धारणवर्ष/Assessment Year: (2011-12))

PVR Engineering Co., 405, Lalbhai Contractor Complex, Opp. Parsi Librery, Nanpura, Surat, Gujarat – 395001,	<b>Vs.</b>	Income Tax Officer, Ward-2(2)(3), Surat, Room No.624, Aayakar Bhavan, Nr. Majura Gate, Surat, Gujarat-395001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AADFP0322M</b>		
<b>(अपीलार्थी/Appellant)</b>		<b>(प्रत्यर्थी/Respondent)</b>

Appellant by	: Shri P M Jagsheth, CA
Respondent by	: Shri Ajay Uke, Ld. Sr. DR
Date of Hearing	: 11/05/2026
Date of Pronouncement	: 02/06/2026

**ORDER**

**Per, Dr. Arjun Lal Saini, AM:**

Captioned appeal filed by the assessee, pertaining to Assessment Year 2011-12, is directed against the order passed under section 250 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) by Commissioner of Income-tax (Appeals), [hereinafter referred to as “the Ld.CIT(A)”], dated 12.12.2024, which in turn arises out of an assessment order passed by the assessing officer u/s 143(3) r.w.s. 147 of the Act, on 30.11.2018.

2. The appeal filed by the assessee for Assessment Year 2011-12, is barred by limitation by 128 days. The assessee has moved a petition requesting the Bench



to condone the delay. The contents of the petition for condonation of delay is reproduced below:

*“In respect of the above, I would like to submit that I have filed an appeal under section 253(1) of the Income Tax Act, 1961 on 18.06.2025. vide ITA No. 678/SRT/2025 against the order of the learned Commissioner of Income Tax (Appeals) relating to A.Y. 2011-12, which was passed on 12.12.2024 and uploaded on the Income Tax e-filing portal under e-proceedings on the same date. Though the appeal ought to have been filed before the Hon'ble Tribunal within sixty days from the date of communication of the order, the same could not be filed within the prescribed time limit because I have very limited knowledge of the Internet. I was not checking my email regularly and was also unaware of the online income tax proceedings. Since the CIT(A)'s order was served via email, I was not aware of it and, therefore, could not take immediate steps to file an appeal before the Hon'ble ITAT, Surat.*

*Subsequently, when I visited the office of my Authorized Representative and checked the Income Tax portal, I came to know that the order of the CIT(A) had been passed and uploaded on the portal. Thereafter, we downloaded the same and immediately filed an appeal before the Hon'ble ITAT, Surat. Accordingly, the appeal has been filed with a delay of 128 days. The delay occurred because the necessary arrangements could not be made for filing the appeal within the prescribed time.*

*In view of the above facts, it is respectfully submitted that the delay in filing the appeal was due to bona fide and sufficient reasons. Therefore, I humbly pray that the delay in filing the appeal may kindly be condoned and the appeal be treated as having been filed within the prescribed time limit, in the interest of justice.”*

3. On the other hand, learned DR for the Revenue opposed the prayer of the assessee for condonation of delay and stated that assessee has failed to explain the sufficient cause. Therefore, delay should not be condoned and appeal of the assessee may be dismissed, on account of delay.

4. I heard the party on this preliminary issue. Having regard to the reasons given in the petition, I condone the delay and admit the appeal for hearing.

5. The solitary grievance of the assessee in this appeal, is that the assessment order was framed u/s 147 r.w.s. 143(3) of the Act, however, the assessment order



ought to have been framed u/s 153C of the Act and opportunity of cross-examination was not provided to the assessee.

6. Brief facts qua the issue are that the original return of income for assessment year (AY) 2011-12, was filed by the assessee, on 27.09.2011, declaring total income at Rs. 5,17,904/-. The same was processed u/s 143(1) of the I.T. Act. In this case, as per information received from the Dy.CIT, Central Circle-1(4), Ahmedabad, the assessee had taken cash loan from Sant Shri Asharamji Ashram Trust, Motera, Sabarmati, Ahmedabad amount of Rs. 12,00,000/- and repaid of Rs.2,60,000/- to the said trust during the F.Y.2010-11. In light of information received, the case was reopened u/s.147 of the I.T Act, after obtaining prior approval of Pr. Commissioner of Income Tax-2, Surat. Accordingly, notice u/s 148 of the I.T. Act dated 30.03.2018 and online notice u/s 148 dated 31.03.2018, generated through ITBA system were issued which were duly served upon the assessee. In response to the notice u/s148 of the I.T. Act, vide letter dated 26.04.2018, the AR of the assessee submitted original return of income (ROI) filed for assessment year (A.Y.) 2011-12, on 27.09.2011 may be treated as ROI against notice u/s.148 of the I.T. Act. Again, the assessee filed its Return of Income electronically on 23.08.2018 for A.Y.2011-12 declaring total income of Rs.5,17,904/- and accordingly notice u/s.143(2) of the I.T. Act dated 29.08.2018 was issued and duly served upon the assessee. In response to the notice u/s. 142(1) & 143(2) of the Act, the AR of the assessee complied with the assessment proceedings and submitted the requisite details through Tapal/Post and stated that since the loan has been repaid in the subsequent year, therefore no addition should be made in the hands of the assessee.



7. During the assessment proceedings, the assessing officer also issued notices to the assessee to explain the transaction. In response, to the notices of the assessing officer, the assessee submitted his reply before the assessing officer, which is reproduced below:

*“5. In response to the show cause Notice, the assessee submitted its reply of show-cause notice vide its letter dated 26.11.2018, which is pursued and placed on record and the relevant part is reproduced as under:*

*"1. We request your goodself to provide us of incriminating documents based on which case of the assessee opened u/s.148 of the Act. The details provided by your goodself is information passed on to your office by Dy. Commissioner of Income tax, Central Circle- 1(4), Ahmedabad. It is necessary for us to refer the incriminating documents related to the assessee based on which case of the assessee has been reopened u/s. 148 of the Act.*

*2. Further we request your goodself to provide us opportunity to cross examine authorize person of Sant Shri Asharam Asharm Trust in your presence.*

*3. Without prejudice to above we would like to submit that as per information provided by Dy. Commissioner of income tax, Central Circle-1(4), Ahemdabad Rs. 12,00,000/- dated 11.03.2010 mentioned as loan taken was related to A.Y.2010-11 and the year in concern. Hence in any case no addition of same should be made.*

*4. Further we request your goodself to provide us copy of "satisfaction note" of Hon'ble Pr. Commissioner of Income Tax or Joint Commissioner of Income Tax on reason of reopening provided by assessing officer for issuing notice u/s. 148 of the Act."*

8. However, the assessing officer rejected the above contention of the assessee and made addition of Rs.2,60,000/-, as an unexplained money, in the hands of the assessee.

9. Aggrieved by the order of the assessing officer, the assessee carried the matter in appeal before the Ld. CIT(A), who has confirmed the action of the assessing officer, therefore, assessee is in further appeal before this Tribunal.



10. I have heard, both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the Id CIT(A) and other materials brought on record. At the outset, the Learned Counsel for the assessee submitted that in the assessee's case, under consideration, the assessment order was framed u/s. 147 r.w.s. 143(3) of the Act, however, the assessment order should have been framed u/s. 153C of the Act, and for that, the Ld. Counsel for the assessee, relied on the following judgements:

- (i) Ghanshyam Madhusudan Soni v. ITO, wd – 1, Modasa, ITA No. 296/AHD/2018, ITAT Ahemdabad
- (ii) M/s. Shagun Jewellers P. Ltd. V. Dy.CIT, Circle – 23(1), ITA No. 3165 to 3167/DEL/2023, ITAT Delhi
- (iii) Suresh Chand Goel v. ITO, wd – 47(1), New Delhi, ITA No. 459 to 462/Del/2018, ITAT, Delhi

On the other hand, the Ld. DR for the Revenue has primarily reiterated the stand taken by the Assessing Officer, which we have already noted in our earlier para and is not being repeated for the sake of brevity.

11. On merit, Ld. Counsel for the assessee submitted that loan taken from Sant Shree Asharamji Trust have been repaid, hence no addition should be made in the hands of the assessee. Besides, while making addition in the hands of the assessee, the assessing officer did not consider the entire document found during the search proceedings/survey proceedings, therefore, the addition made by the assessing officer should be deleted. In addition to this, learned Counsel for the assessee also argued that during the assessment proceedings, the assessing



officer did not provide the opportunity of cross examination. I have considered submissions of both the parties and noted that under the circumstances, the cross examination is imminent. Thus, there is clearly avoidable friction and violation of principles of natural justice, as laid down by the Hon'ble Supreme Court in the case of Andaman Timber Industries vs. Commissioner of Central Excise 281 CTR 241 (SC) and Hon'ble Apex Court In the case of Kishanchand Chellaram vs. CIT (1980) 125 ITR 713. The Hon'ble Supreme Court in the case of Sahara India vs. CIT (2008) 14 SCC 151, had held that "The underlying principle of natural justice, evolved under the common law, is to check arbitrary exercise of power by the State or its functionaries. Therefore, the principle implies a duty to act fairly i.e. fair play in action. The aim of rules of natural justice is to secure justice or to put it negatively to prevent miscarriage of justice. Further, the Hon'ble Supreme Court in Kalra Glue Factory v. Sales Tax Tribunal [1987] 167 ITR 498 set- aside the order of the Tribunal as well as order in revision of High Court on the ground that "...the statements of a partner of another firm upon which the Sales Tax Tribunal relied, had not been tested by cross examinations." Therefore, I note that failure to allow cross examination sought by the assessee, is a gross violation of principles of natural justice and hence, the action of the assessing officer is not justified and the entire addition is to be deleted. I also find merit in the submissions of learned Counsel for the assessee to the effect that the assessment order was framed u/s 147 r.w.s. 143(3) of the Act, however, the assessment order should have been framed u/s 153C of the Act, hence, the entire reassessment proceedings initiated against the assessee, should be quashed. Therefore, based on these facts and circumstances, I quash the reassessment order framed by the assessing officer under section 143(3) read with section 147 of the Act, dated 30.11.2018, being *void ab-initio*.



12. In the result, appeal filed by the assessee, is allowed, in above terms.

**Order is pronounced in the open Court on 02/06/2026.**

**Sd/-**  
**[ Dr. Arjun Lal Saini ]**  
**लेखा सदस्य/Accountant Member**

Surat

Date: 02/06/2026

Copy of the order forwarded to :

- The assessee
- The Respondent
- CIT
- The CIT(A)
- DR, ITAT, Surat
- Guard File

By order

Sr. Private Secretary  
ITAT, Surat