

IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "A" BENCH AHMEDABAD

BEFORE, SHRI N. K. BILLAIYA, ACCOUNTANT MEMBER  
AND SHRI S. S. GODARA, JUDICIAL MEMBER

ITA No. 1280/Ahd/2014  
(Assessment Year: 2009-10)

Hemantkumar V. Nagar  
1420/8, Haribhai Market, Revdi  
Bazar, Kalupur, Ahmedabad

Appellant

Vs.

The Assistant Commissioner of  
Income-tax, Circle-3, Ahmedabad

Respondent

PAN: ADQPN0743A

आवेदक की ओर से/By Assessee : Grishma Soni, A.R.  
राजस्व की ओर से/By Revenue : K. Madhusudan, Sr. D.R.  
सुनवाई की तारीख/Date of Hearing : 18.09.2017  
घोषणा की तारीख/Date of  
Pronouncement : 26.09.2017

**ORDER**

**PER S. S. GODARA, JUDICIAL MEMBER**

This Revenue's appeal for assessment year 2009-10 arises against the CIT(A)-6, Ahmedabad's ex parte order dated 04.03.2014, in case no. CIT(A)-VI/ACIT Cir-3/215/11-12, confirming Assessing Officer's action making Section 69 addition of unexplained investment amounting to Rs.17,81,340/- in assessment order dated 26.11.2011, in proceedings u/s. 143(3) of the Income Tax Act, 1961; in short "the Act".

Heard both sides. Case file perused.

2. The assessee's challenge in the instant appeal is directed towards both the lower authorities' action adding his cash deposits of Rs.17,81,340/- in question being treated as unexplained investments. There is no dispute that the assessee had in fact deposited the above cash sum in his Kotak Mahindra Bank account. The Assessing Officer sought to know the source thereof in the course of scrutiny. The assessee attributed his cash deposits to cash sales as well as withdrawals to have been re-deposited in the bank. He further clarified that the net deposit amount was much less than that coming to Rs.15,45,590/-. The Assessing Officer framed the above assessment rejecting assessee's above pleadings for want of supportive evidence including cash turnover claimed of Rs.18,24,376/-. He therefore made the impugned addition of Rs.70,81,346/-.

3. The assessee preferred the appeal. We notice from the lower appellate order that the CIT(A) first of all issued notice dated 31.10.2013 fixing date of hearing on 25.11.2013. He noted assessee's none appearance therein. He then postponed assessee's appeal herein vide notice dated 27.11.2013 to 11.12.2013. The assessee filed adjournment therein. The CIT(A) thereafter issued last notice dated 31.10.2014 for 21.02.2014. The assessee did not appear. This made the CIT(A) to pass his ex parte lower appellate order upholding the impugned addition of Rs.17,81,340/-.

4. We have heard rival submissions. Learned counsel representing assessee submits that there is no indication in the case file suggesting actual service of notice dated 31.01.2014. She further states that the assessee is very much ready and willing to pursue his instant lis. The Revenue on the other hand claims that the CIT(A) has rightly passed the ex parte order since the assessee did not appear despite service of notice. It is evident from the case file that the CIT(A) has merely extracted assessee's statement of facts without discussing anything on merits at all. We observe in this backdrop of facts that it is not assessee's non appearance but the CIT(A)'s action in not adjudicating the issue on merits as per case records which forms a very strong reason for us to remit the instant appeal back to the lower appellate

authority/CIT(A) for a fresh adjudication. We order accordingly. The assessee shall render all cooperation in finalizing the lower appeal. The CIT(A) shall adjudicate the issue after affording adequate opportunity of hearing to assessee.

5. This assessee's appeal is accepted for statistical purposes.

[Pronounced in the open Court on this the 26<sup>th</sup> day of September, 2017.]

Sd/-  
(N. K. BILLAIYA)  
ACCOUNTANT MEMBER  
Ahmedabad: Dated 26/09/2017

Sd/-  
(S. S. GODARA)  
JUDICIAL MEMBER

True Copy

S.K.SINHA

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /  
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण, अहमदाबाद ।