

-आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ - अहमदाबाद ।

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD – BENCH 'A'**

**BEFORE SHRI PRAMOD KUMAR, ACCOUNTANT MEMBER
AND
SHRI RAJPAL YADAV, JUDICIAL MEMBER**

आयकर अपील सं./ ITA No.413/Ahd/2015

निर्धारण वर्ष/Asstt. Year: 2011-12

Yash Organizers P.Ltd. Ganesh Corporate House 100 Ft. Hebatpur-Thaltej Road Nr.Sola Bridge Off. S.G. Highway Ahmedabad 380 054. PAN : AAACY 2649 A	Vs.	DCIT, Cir.8 Ambawadi Ahmedabad.
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<i>अपीलार्थी</i> (Appellant)	<i>प्रत्यर्थी</i> (Respondent)
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Assessee by :	Shri S.N. Divetia, AR
Revenue by :	Shri Saurabh Singh, Sr.DR

सुनवाई की तारीख/Date of Hearing : 13/03/2018

घोषणा की तारीख/Date of Pronouncement: 15 /05/2018

आदेश/ORDER

PER RAJPAL YADAV, JUDICIAL MEMBER:

Assessee is in appeal before the Tribunal against order of Id.CIT(A)-8, Ahmedabad dated 22.12.2014 passed for the Asstt.Year 2011-12.

2. Assessee has taken three grounds of which contained sub-grounds. However, its only grievance is that the Id.CIT(A) has erred in confirming addition of Rs.74,46,656/- by way of an *ex parte* order.

3. Brief facts of the case are that the assessee company at the relevant time was engaged in the business of real estate and construction activities. It has filed its return of income on 7.7.2012 declaring total income at Rs.2,97,13,160/-. The case of the assessee was selected for scrutiny assessment and notice under section 143(2) was issued and served upon the assessee. On perusal of accounts it revealed to the AO that total sale value of seven shops have been recognised in the profit & loss account at Rs.7,70,86,500/-. However, the assessee has credited sale of Rs.6,16,69,200/- only in the accounts for computing income. The AO sought explanation of the assessee as to why it has not recognized the total value of the shops in the sale value. The assessee contended that actual work of construction of building completed to the extent of 89.66%. Since a number of formalities are required to be fulfilled, therefore, it has to recognize the sale value to the extent of 80%. This explanation of the assessee was rejected by the AO. He observed that the assessee should have recognized sale consideration to the extent of 89.66% because to this extent actual work has been completed. He worked out the difference of 74,46,556/- and made addition.

4. Dissatisfied with this addition, the assessee carried the matter in appeal before the Id.CIT(A). The Id.CIT(A) has observed that in response to the notice of hearing, Shri S.N. Diveta, Advocate has filed written submissions under his signature dated 8.11.2014. The assessee sought adjournment vide application dated 2.12.2014. However, the Id.CIT(A) has decided the appeal

of the assessee *ex parte*. The appeal of the assessee has been dismissed.

5. While impugning the order of the Id.CIT(A), the Id.counsel for the assessee contended that proper opportunity was not provided to the assessee and appeal has been erroneously dismissed *ex parte*. He prayed that the impugned order be set aside and one more opportunity be granted to the assessee to make submission. On the other hand, the Id.DR contended that the Id.CIT(A) has taken into consideration written submissions as well as statement of facts filed by the assessee.

6. We have duly considered rival submissions and gone through the record carefully. Sub-section 6 of Section 250 contemplates that Id.CIT(A) would determine the points in dispute and thereafter record reasoning in support of his conclusion on these points. A perusal of the impugned order would reveal that it is running into 5 pages. The Id.CIT(A) has reproduced grounds of appeal on page no.1, and thereafter reproduced alleged submissions made by the assessee in paragraph-3 on page no.2. From latter part of page no.2 upto page no.5, the Id.CIT(A) has reproduced the finding of the AO. The Id.CIT(A) has concurred with the findings of the AO in para-7. To our mind impugned order is not in coherence with the requirement of sub-section (6) of section 250. The Id.CIT(A) ought to have given one more opportunity to the assessee for advancing arguments and submitting other material which has been submitted before the AO. Thereafter by recording reasons appeal ought to have been decided. *Simplicitor* concurrence with the finding of the AO is not proper method for adjudicating the appeal. Therefore, we set

aside the order of the Id.CIT(A) and restore this issue to the file of the Id.CIT(A) for fresh adjudication.

7. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the Court on 15th May, 2018.

Sd/-
(PRAMOD KUMAR)
ACCOUNTANT MEMBER

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER