

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

[Coram: Pramod Kumar, AM and Ms. Madhumita Roy, JM]

ITA No. 781/Ahd/2018
Assessment Year: 2012-13

Rishi Nitinbhai Shah

RA-16, Maruti Row House,
Opp. Diner Bell Restaurant-2,
Subhash Chowk, Gurukul Road,
Ahmedabad-380052
[PAN : B JLPS 7114 N]

.....Appellant

Vs.

Income Tax Officer

Ward-2(1)(1), Ahmedabad

.....Respondent

Appearances by:

AL Thakkar for the Appellant

Saurabh Singh for the Respondent

Date of concluding the hearing : 22.06.2018

Date of pronouncing the order : 27.06.2018

O R D E R

Per Pramod Kumar, AM:

1. By way of this appeal, the assessee-appellant has challenged correctness of the order dated 5th August, 2016 passed by the by the CIT(A)-2, Ahmedabad in the matter of assessment under section 143(3) of the Income-tax Act, 1961, for the assessment year 2012-13.

2. This appeal is time barred by 452 days but the assessee has moved a condonation petition supported by affidavit seeking condonation of delay. The delay is said to have been caused by the impugned *ex parte* order did not reach the assessee and was kept by the accountant. Having perused the material and having heard the learned Departmental Representative on the same, we are inclined to condone the delay and take up the matter on merits.

3. When this appeal was taken up for hearing, it was noticed that the impugned order dated 05.08.2016 passed by the learned CIT(A) is an *ex-parte* order and that the appellant could not attend the proceedings before the CIT(A). The impugned order is thus passed without the benefit of assistance by the assessee appellant and the assessee appellant is now in appeal before us.

4. In response to a question from the Bench, learned Departmental Representative fairly agreed that he has no objection to the matter being remitted to the file of learned CIT(A) for adjudication *de novo*, after giving yet another

reasonable opportunity of hearing to the assessee. We think this is a fair approach and since the learned CIT(A) did not have the benefit of assistance from the assessee appellant, the matter should be remitted to the file of learned CIT(A) for adjudication *de novo*, after giving yet another opportunity of hearing. In any case, there is no reason for an Appellate Forum being bypassed and the matter being taken up directly before us for adjudication on merits.

5. In view of this discussion and bearing in mind entirety of the case, we deem it fit and proper to remit the matter to the file of learned CIT(A) for fresh adjudication and the assessee appellant be given a reasonable opportunity of hearing. We order so.

6. In the result, appeal is allowed for statistical purposes in the terms indicated above. Pronounced in the open court today on the 27th June, 2018

Sd/-

Ms. Madhumita Roy
(Judicial Member)

Ahmedabad, the 27th day of June, 2018

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Copies to: (1) *The appellant*
(2) *The respondent*
(3) *Commissioner*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

Sd/-

Pramod Kumar
(Accountant Member)

By order

TRUE COPY

*Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad*