

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

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

ITA No. 2330/Ahd/2017  
Assessment Year: 2010-11

**Naynaben Rohitbhai Shah**

5/2, Vitrag Co-op Housing Society,  
Prabhudas Thakker College Road,  
Nr. Shantivan, Paldi  
Ahmedabad-380007  
[PAN : AMUPS 5608 N]

.....Appellant

**Vs.**

**Income Tax Officer**

Ward-5(3)(2), Ahmedabad

.....Respondent

**Appearances by:**

**Sulabh Padshah** for the Appellant  
**Saurabh Singh** for the Respondent

Date of concluding the hearing : 22.06.2018  
Date of pronouncing the order : 09.07.2018

**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 17<sup>th</sup> August, 2017 passed by the by the CIT(A), Ahmedabad-5 in the matter of assessment under section 143(3) r.w.s. 144/147 of the Income-tax Act, 1961, for the assessment year 2010-11.
2. When this appeal was taken up for hearing, it was noticed that the impugned order dated 17.08.2017 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.
3. At the time of hearing before us, learned Counsel for the assessee explained that, initially, three notices issued by the learned CIT(A) were served on the wrong address as there was a change in address of the assessee. In spite of providing new address in Form No.35, the notices were served at the old address only. Subsequent notice dated 31.05.2017 issued by the CIT(A) was received by assessee's Chartered Accountant, Dr. Jeevraj Purohit and matter was adjourned on his request; however, he failed to attend on the subsequent date of hearing, which was scheduled on 16.08.2017, due to some misunderstanding between him and the assessee as conspicuously described in affidavit dated 16.10.2017, which is placed on record. The learned Counsel for the assessee, therefore, pleaded that the matter

may be remitted to the file of the learned CIT(A) for fresh adjudication on merits, after providing due opportunity of hearing to the assessee.

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 9<sup>th</sup> July, 2018

Sd/-

Sd/-

**Ms. Madhumita Roy**  
(Judicial Member)

**Pramod Kumar**  
(Accountant Member)

**Ahmedabad, the 9<sup>th</sup> day of July, 2018**

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

By order

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Assistant Registrar  
Income Tax Appellate Tribunal  
Ahmedabad benches, Ahmedabad