

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT
[Conducted through E-Court at Ahmedabad]**

**BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER And
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.357/RJT/2014
(निर्धारण वर्ष/Assessment Year : 2003-04)

Shri Tulsibhai Devrajbhai Patel Prop. of Patel Sales Corporation Vora Baug, Morbi	बनाम/ Vs.	The Income Tax Officer Ward-5(3) Morbi
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AIPPP 4940 F		
(अपीलार्थी/Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/ Appellant by :	Shri M.J. Ranpura, AR
प्रत्यर्थी की ओर से/Respondent by:	Shri Praveen Verma, Sr.DR

सुनवाई की तारीख/ Date of Hearing	29/01/2019
घोषणा की तारीख/Date of Pronouncement	31/01/2019

आदेश / O R D E R

PER MAHAVIR PRASAD, JUDICIAL MEMBER:

The captioned appeal has been filed at the instance of the Assessee against the order of the Commissioner of Income Tax (Appeals)–IV, Rajkot [CIT(A) in short] vide appeal no.CIT(A)-IV/0105/08-09 dated 25/03/2014 arising in the assessment order passed under s.143(3) r.w.s.147 of the Income Tax Act, 1961(hereinafter referred to as "the Act") dated 24.12.2008 relevant to Assessment Year (AY) 2003-04.

2. The assessee has raised following grounds of appeal:-

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1. *The grounds of appeal mentioned hereunder are without prejudice to one another.*
2. *The learned Commissioner of Income Tax (Appeals)-IV, Rajkot [hereinafter referred to as the "CIT(A)"] erred on facts as also in law in confirming initiation of action u/s.147 of the Act as valid.*
3. *The Ld. CIT(A) erred on facts as also in law in retaining addition of ₹ 9,22,500/- on account of alleged unrecorded sales and purchase. The addition may kindly be deleted.*
4. *The Ld. CIT(A) erred on facts as also in law in retaining addition of ₹76,57,293/- u/s.69C of the Act on account of alleged unexplained expenditure/payments. The addition may kindly be deleted.*
5. *The Ld.CIT(A) erred on facts a also in law in sustaining AO's action of the rejection of books of account and thereby making addition of ₹10,540/- made on account of low gross profit. The addition may kindly be deleted and the book results may kindly be accepted.*
6. *The learned CIT(A) erred on facts as also in law in retaining addition of ₹36,000/- on account of alleged low household withdrawals. The addition may kindly be deleted.*

2. At the outset, the ld.counsel for the assessee before us submitted that the Ld. CIT(A) has passed *ex-parte* order without giving sufficient opportunity of being heard to the assessee. Accordingly, the Ld.AR for the assessee prayed before us to restore the matter to the file of Ld.CIT(A) for fresh adjudication as per the provisions of law.

3. A specific question was raised from the Bench to the ld.counsel for the assessee to justify the reasons for non-appearance before the

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Ld.CIT(A), the Ld.AR failed to provide any plausible reasons for the non-appearance of the assessee before the Ld.CIT(A).

4. Indeed the provisions of section 250(6) of the Income Tax Act, 1961 casts obligation upon the Ld.CIT(A) to pass a reasoned order after giving a proper opportunity of hearing to the assessee. But the negligent/dilly-dally approach of the assessee in pursuing the matter before the Ld.CIT(A) cannot be neglected. Therefore, we are inclined to levy a cost of Rs.10,000/- upon the assessee for adopting the negligent approach in pursuing the matter before the Ld.CIT(A). Accordingly, we direct the assessee to deposit a sum of Rs.10,000/- to the Income Tax Department prior to the commencement of hearing before the Ld.CIT(A).

5. The Ld.DR did not raise any objection if the matter is restored to the file of Ld.CIT(A) for fresh adjudication in accordance with the provisions of law.

6. In view of the above, we are inclined to restore the issue to the file of Ld.CIT(A) subject to payment of Rs.10,000/- to the Income Tax Department as discussed above for afresh adjudication as per the provisions of law. Hence, the appeal of the Assessee is allowed for statistical purposes.

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7. In the result, appeal of the assessee is allowed for statistical purposes as narrated above.

This Order pronounced in Open Court on	31/01/2019
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Sd/-
(WASEEM AHMED)
ACCOUNTANTMEMBER

Sd/-
(MAHAVIR PRASAD)
JUDICIAL MEMBER

Ahmedabad; Dated 31/01/2019

टी.सी.नायर, व.नि.स./T.C. NAIR, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-IV, Rajkot
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण,राजकोट/DR,ITAT, Rajkot
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, राजकोट / ITAT, Rajkot