

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'SMC' अहमदाबाद ।

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

**BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER &
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No. 120/Ahd/2019
(निर्धारण वर्ष / Assessment Year : 2012-13)

Sanjay Kishanlal Bishnoi 11, Nirav Palace, Chandkheda, Ahmedabad	बनाम/ Vs.	Asstt. Commissioner of Income Tax Circle-2(2), Ahmedabad
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AMUPB7496D		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Abhimanyu Singh Bhati, A.R.
प्रत्यर्थी की ओर से /Respondent by :	Shri Virendra Singh, Sr.D.R.

सुनवाई की तारीख / Date of Hearing	05/03/2019
घोषणा की तारीख /Date of Pronouncement	06/03/2019

आदेश/ORDER

PER PRADIP KUMAR KEDIA - AM:

The captioned appeal has been filed at the instance of the Assessee against the order of the Commissioner of Income Tax (Appeals)-6, Ahmedabad ('CIT(A)' in short), dated 20.11.2018 arising in the assessment order dated 30.12.2017 passed by the Assessing Officer (AO) under s. 143(3) r.w.s. 147 of the Income Tax Act, 1961 (the Act) concerning AY 2012-13.

2. The assessee in the captioned appeal has raised several grounds assailing the order of the CIT(A) for dismissal of the appeal of the assessee. However, it is noticed that one of the substantive grounds

raised by the assessee whereby the assessee seeks to impugn the order of the CIT(A) towards alleged valuation of principles of natural justice.

3. When the matter was called for hearing, the learned AR for the assessee at the outset submitted that the appeal was filed with CIT(A)-10, Ahmedabad, whereas the order was passed by the CIT(A)-6, Ahmedabad and that too without ensuring service of notice on the assessee. It was thus submitted that the appellate order passed by the CIT(A) is an *ex parte* order whereby the CIT(A) has summarily dismissed the appeal of the assessee in *limine* for want of prosecution without service of notice. It was contended that the CIT(A) has not rendered any decisions on merits as obligated under s.250(6) of the Act. It was thus urged that the order of CIT(A) suffers from violation of principles of natural justice and thus requires to be set aside for fresh adjudication on merits.

4. The learned DR, on the other hand, relied upon the order of the CIT(A) .

5. We have considered the rival submissions. We straightway refer to Section 250(6) of the Act which enjoins that the CIT(A) shall state the points for determination before it and the decision shall be rendered on such points alongwith reasons for the decision. Thus, it was incumbent upon the CIT(A) to deal with the grounds on merits even in *ex parte* order. A bare glance of the order of the CIT(A) shows that CIT(A) has not addressed itself on the various points for its determination at all and dismissed the appeal of assessee for default in appearance. Needless to say, the CIT(A) plays role of both adjudicating authority as well as appellate authority. Thus, the CIT(A) could not have shunned the appeal for non-compliance without addressing the issue on merits.

6. In the totality of the circumstances, we consider it just and expedient to restore the matter back to the CIT(A) in the larger interest of justice with a view to enable the assessee to avail proper opportunity for disposal of appeal by the CIT(A) on various points. Needless to say, the assessee shall extend full co-operation to the CIT(A) without any *demur*, failing which, the CIT(A) shall at liberty to conclude the appellate proceedings in accordance with law. Hence, the order of the CIT(A) appealed against, is set aside and all the issues raised in the impugned appeal are restored back to the file of the CIT(A) for fresh adjudication in accordance with law after giving reasonable opportunity of hearing to the assessee.

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

This Order pronounced in Open Court on 06/03/2019

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER
Ahmedabad: Dated 06/03/2019

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT 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 ।