

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'A' अहमदाबाद ।

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

**BEFORE SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER
& SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No. 672/Ahd/2017
(निर्धारण वर्ष / Assessment Year : 2013-14)

Devendrasinh C. Vaghela Cosmos Castle, Opp. Wide Angle, S G Highway, Ahmedabad.	बनाम/ Vs.	DCIT Circle- 5(3), 1 st Floor, Narayan Chambers, Ahmedabad.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : ADN PV3 956 A		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	None
प्रत्यर्थी की ओर से / Respondent by :	Shri S. K. Dev, Sr. DR

सुनवाई की तारीख / Date of Hearing	25/06/2019
घोषणा की तारीख /Date of Pronouncement	28/06/2019

आदेश/ORDER

PER SUDHANSHU SRIVASTAVA - JM:

This appeal is filed by the assessee against order dated 04.01.2017 passed by the Ld. Commissioner of Income Tax (Appeals)-5, Ahmedabad (hereinafter called the 'CIT(A)') for assessment year 2013-14.

2.0 The brief facts of the case are that the assessee had filed his return of income declaring total income at Rs. 51,13,330/-. The assessee's case was selected for scrutiny under CASS and thereafter the assessment was completed at a income of Rs. 1,03,68,470/- after disallowing the assessee's claim of exemption under sec. 54F of the Income Tax Act, 1961 (hereinafter called 'the Act') to the tune of Rs. 52,55,141/-. The assessee's appeal before the Ld. First Appellate Authority was also dismissed. Now, the assessee is before this Tribunal (ITAT) and has challenged the order of the Ld. CIT (A) by raising the following grounds:-

"1. The order passed by the Ld. CIT(A) dated 04.01.2017 is bad in law. Your appellant submits that it be suitable modified or cancelled.

2. AO is erred or not justified in disallowance of Rs. 52,55,141/- by way of claimed u/s. 54F for residential property investments of Rs. 52,55,141/-, without appreciating the facts of the case, submission of the appellant and provision of law. It is therefore prayed that the disallowance of u/s. 54F may kindly be allowed."

3.0 None was present when the appeal was called out for hearing and no application for adjournment was also received. Therefore, we are proceeding to dispose of this appeal ex parte qua the assessee/appellant.

4.0 A perusal of the impugned order shows that the Ld. CIT (A) has dismissed the assessee's appeal on the ground that in spite of several opportunities having been given to the assessee, the relevant

documents were not submitted before him nor was any compliance made by him in response to the queries raised by him. The Ld. CIT (A) has observed that since the assessee had not submitted any details regarding the allowability of the claim under sec. 54F of the Act, the observation/s of the AO remained uncontroverted.

5.0 The Ld. Senior Departmental Representative has submitted that the assessee has not been forthcoming in his conduct and that his continued absence before the Ld. CIT (A) as well as before this Tribunal should not be condoned and the appeal be dismissed at the threshold itself.

6.0 Looking into the conduct of the assessee, apparently, the assessee seems not interested in pursuing this appeal and initially we were inclined to dismiss the assessee's appeal *in limine*. However, a perusal of the record shows that the assessee has filed some evidences in form of the Paper Book before this Tribunal on 22.01.2019 which relate to the assessee's claim of exemption under sec. 54 of the Act. Therefore, in the interest of substantial justice and as a last opportunity to the assessee we restore the file to the office of the Ld. CIT (A) with a direction to adjudicate the issue afresh on merits after giving proper opportunity to the assessee to

present his case failing which the Ld. CIT (A) would be at liberty to pass an order as per law even ex-parte qua the assessee.

7.0 In the final result, the appeal of the assessee stands allowed for statistical purposes.

This Order pronounced in Open Court on 28/06/2019

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Sd/-
(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER

Ahmedabad: Dated 28/06/2019

TANMAY

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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 ।