

-आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ- अहमदाबाद ।

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD – BENCH 'A'**

**BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER
AND
SHRI PRADIPKUMAR KEDIA, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No.609/Ahd/2018

निर्धारण वर्ष/Asstt. Year: 2013-14

Bhupatbhai Keshubhai Gohel 17, Sagar Society Uttamnagar, Maninagar Ahmedabad 380 008. PAN : AATPG 7911 P	Vs.	ITO, Ward-6(1)(4) Ahmedabad.
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<i>(Applicant)</i>		<i>(Respondent)</i>
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Assessee by :	Shri M.K. Patel, AR
Revenue by :	Apoorva Bharadwaj, Sr.DR

सुनवाई की तारीख/Date of Hearing : 12/07/2019

घोषणा की तारीख/Date of Pronouncement: 17 /07/2019

आदेश/ORDER

PER RAJPAL YADAV, JUDICIAL MEMBER:

Assessee is in appeal before the Tribunal against order of the Id.CIT(A)-6, Ahmedabad dated 18.12.2017 passed for the Asstt.Year 2013-14.

2. In ground no.1 and 2, the assessee has pleaded that the Id.CIT(A) has erred in dismissing the appeal of the assessee for want of prosecution without adjudicating each ground on merit.

3. With the assistance of the Id.representatives, we have gone through the record carefully. The assessee has filed an application for listing the appeal out-of-turn hearing. While hearing the

application we find that appeal of the assessee was dismissed for want of prosecution. Therefore, we confronted both the parties as to why this appeal be not taken for hearing on merit itself. Both the Id.representatives did not object for taking up the appeal for hearing. A perusal of order of the Id.CIT(A) would show that appeal was listed on four occasions, but the assessee did not appear. The Id.CIT(A) thereafter dismissed the appeal in default for want of prosecution.

4. Sub-section (6) of section 250 has a direct bearing on the controversy. Therefore, it is pertinent to take note of this clause which reads as under:

"6) The order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision."

5. On perusal of section would indicate that the Id.CIT(A) was required to formulate points in dispute, and thereafter record reasons on such points. Even if the assessee did not participate, the Id.CIT(A) ought to have gone through the assessment record and thereafter formed the point in dispute, and should have recorded reasons in support of her conclusions on those points. The Id.CIT(A) failed to adhere the mandatory procedure, hence her order is not sustainable. We allow this appeal of the assessee and set aside the order of the Id.CIT(A). All issues are remitted back to the file of the Id.CIT(A) for fresh adjudication. Needless to say, during the set aside proceedings, the assessee shall not indulge in dilatory tactics as a strategy to prolong the proceedings

and shall cooperate for adjudication of the issue before the Id.CIT(A) in accordance with law.

6. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the Court on 17th July, 2019.

Sd/-
(PRADIPKUMAR KEDIA)
ACCOUNTANT MEMBER

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER