

**IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT**

**(BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER
& SHRI O. P. MEENA, ACCOUNTANT MEMBER)**

**ITA. No: 3107/AHD/2014
(Assessment Year: 2010-11)**

Shri Sureshkumar Ashopalav Patel Falia, Surat	Miteshbhai Jain 102, Apartment, Katargam,	V/S	Income Tax Officer, Ward- 8 (3), Surat
(Appellant)			(Respondent)

PAN: ACZPJ8324R

**Appellant by : Ms. Kiran K. Shah, C.A.
Respondent by : Shri P.S. Choudhary Sr. D.R.**

(आदेश)/ORDER

Date of hearing : 20 -06-2019
Date of Pronouncement : 15 -07-2019

PER MAHAVIR PRASAD, JUDICIAL MEMBER

1. This appeal by the Assessee is directed against the order of the Ld. CIT(A)-V, Surat dated 27.10.2014 pertaining to A.Y. 2010-11 and following grounds have been taken:

- 1) The learned CIT (A) grossly erred in enhancing the assessed income further by Rs. 61,91,800/- u/s. 251 (1) r.w.s. 251 (2) of the Act.*
 - 2) The learned CIT (A) grossly erred in enhancing the assessed income without giving reasonable opportunity of being heard.*
 - 3) The learned CIT (A) further erred in confirming the addition of Rs. 25,00,000/- on account of deposit of cash in the bank account.*
 - 4) The appellant reserve right to add, alter and withdraw any grounds of appeal.*
2. There is a delay of 120 days in filing of appeal in support of its contention. Assessee has filed an affidavit and has given reasons therein, we are satisfied with the reasons stated in the affidavit and we condone the delay and proceed with the appeal.
3. Facts of the case are that the appellant had filed return of income showing taxable income at Rs. 1,67,440/- on 09.08.2010. During the assessment proceedings, the learned Income-tax Officer made addition of Rs. 25,00,000/- being cash deposited in the bank account with IDBI Bank, Ghod-Dod Road, Surat. The appellant had redeposited of the major cash as the same was withdrawn earlier from the bank for buying of some property. The appellant had also explained the source of deposit i.e. the receipt of amount from debtors. The learned AO did not accept the explanation and made addition as income from other sources.
4. Against the order of the ld. A.O. assessee preferred first statutory appeal before the ld. CIT(A). A notice was sent by Speed Post to the assessee and same was received back with the comment “ not known”. Thereafter ld. CIT(A) decided matter ex parte.

5. Thereafter, assessee preferred second statutory appeal before us.
6. We have gone through the relevant record and impugned order. We find that notice was not received by the assessee and matter was decided ex parte. Though, it was duty of the assessee to remain in touch with the office of the ld. CIT(A) to find out the status of his appeal for which he failed to do so.
7. In the interest of justice, we set aside this matter to the file of ld. CIT(A) who will decide this matter afresh after hearing the assessee and assessee is directed to deposit Rs. 10,000/- as cost with the Income Tax Department and ld. CIT(A) will proceed with the appeal only after production of receipt of Rs. 10,000/- by the assessee.
8. In the result, appeal filed by the Assessee is allowed for statistical purposes.
9. The order is pronounced by listing the case on the Notice Board under Rule 34(4) of Income Tax Appellate Tribunal Rules, 1963.

Sd/-
(O. P. MEENA)
ACCOUNTANT MEMBER
Ahmedabad: Dated : 15/07/2019

Sd/-
(MAHAVIR PRASAD)
JUDICIAL MEMBER

Rajesh

Copy of the Order forwarded to:-

1. The Appellant.
2. The Respondent.
3. The CIT (Appeals) –
4. The CIT concerned.
5. The DR., ITAT, Ahmedabad.
6. Guard File.

By ORDER

/ / TRUE COPY / /

Deputy/Asstt.Registrar
ITAT, Surat