

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, AHMEDABAD**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER &
Ms. MADHUMITA ROY, JUDICIAL MEMBER**

ITA No. 1773/Ahd/2017
(Assessment Year : 2012-13)

Anil Roshanlal Gupta,
12A, Nilkanth Bungalow,
Nr. Doon Blossom School,
New C. G. Road,
Chandkheda, Ahmedabad.

Vs. Income Tax Officer,
Ward – 2(2)(1),
Ambawadi,
Ahmedabad.

[PAN No. ABYPG 6403 G]

(Appellant)

..

(Respondent)

Appellant by : Shri S. N. Devatia, A.R.
Respondent by : Shri S. K. Dev, Sr. D.R.

Date of Hearing : 24/07/2019
Date of Pronouncement : 08/08/2019

ORDER

PER Ms. MADHUMITA ROY - JM:

The instant appeal filed by the assessee is directed against the order dated 26.12.2016 passed by the Commissioner of Income Tax (Appeals)-10, Ahmedabad arising out of the order dated 25.03.2015 passed by the ITO, Ward – 2(2)(1), Ahmedabad under section 143(3) of the Income Tax Act, 1961 (hereinafter referred as to “the Act”) for the Assessment Year 2012-13.

2. It appears from the record that the order passed by the Learned CIT(A) on merit is an ex-parte one. It appears from the record that there is 128 days delay in filing the instant appeal before us. The plea taken by the assessee is this that he was sick and due to undergoing medical treatment could not been able to take steps in the matter. We have

perused the explanation given by the assessee in the affidavit filed by him before us, which seems to be genuine and hence delay is condoned.

We find that on six occasions notices were served but none appeared on behalf of the assessee. Hence having no other alternative the order was finalized ex-parte by the Learned CIT(A).

Another application for admission of additional evidence has also been brought to our notice by the Learned Advocate which has been filed before us.

However, since we find that the matter has been finalized ex-parte by the first appellant authority where the assessee has not able to represent his case we consider it fit and proper to remit the issue to the file of the Learned CIT(A) in order to prevent the miscarriage of justice. We, thus, hereby set aside the issue to the file of the Learned CIT(A) to decide the same afresh upon giving an opportunity of being heard to the assessee and also upon taking into consideration the evidence which the assessee may choose to file before the Learned CIT(A). However, we make it clear that the assessee will also Co-operate with the authorities below without asking for any unnecessary adjournment. Hence, assessee's appeal is allowed for statistical purposes.

3. In the result, assessee's appeal is allowed for statistical purposes.

This Order pronounced in Open Court on

08/08/2019

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER

Sd/-
(Ms. MADHUMITA ROY)
JUDICIAL MEMBER

Ahmedabad; Dated 08/08/2019
Priti Yadav, 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)-10, Ahmedabad.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad