

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**AHMEDABAD “B” BENCH**

**(BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT  
MEMBER & SHRI MAHAVIR PRASAD, JUDICIAL MEMBER)**

**ITA. No: 1656/AHD/2018  
(Assessment Year: 2010-11)**

<b>Shri Pravinbhai Ramjibhai Rupala A-33, Sachin Tower, 100 FT Road, Satellite, Ahmedabad- 380015</b>	<b>V/S</b>	<b>Income Tax Officer, Ward- 6 (1)(1), Ahmedabad</b>
<b>(Appellant)</b>		<b>(Respondent)</b>

**PAN: ABJPR0291A**

**Appellant by : None  
Respondent by : Shri Vidyut Trivedi, Sr. D.R.**

**(आदेश)/ORDER**

Date of hearing : 20 -01-2020

Date of Pronouncement : 19-02-2020

**PER MAHAVIR PRASAD, JUDICIAL MEMBER**

1. This appeal filed by the Assessee is directed against the order of the Ld. CIT(A)-6, Ahmedabad dated 30.01.2017 pertaining to A.Y. 2010-11 and following grounds have been taken:

*(I) Addition of Rs. 95.50.000/-:*

*The Ld. ITO has added Rs. 95,50,000/- (Rupees Ninety Five Lakhs Fifty Thousands only) to the income of the assessee, which is the sale proceeds of immovable property sold by the assessee and which is also confirmed by C.I.T. (Appeals). The entire sale proceeds cannot be considered as the income, as there must be cost of the immovable property sold. While passing the assessment order, no cost of immovable property was considered. So, assessing authority has erred in making addition of Rs. 95,50,000/- (Rupees Ninety Five Lakhs Fifty Thousands only) to the income of the assessee. It is against the principle of natural justice and requires to be deleted.*

*(II) Addition of Rs. 5.50.000/-:*

*The Ld. ITO has erred in making addition of Rs. 5,50,000/- (Rupees Five Lakhs Fifty Thousands only) on account of purchase and sale of shares and Rs. 5,00,000/- (Rupees Five Lakhs only) is confirmed by the Ld. C.I.T. (Appeals). The addition of Rs. 5,00,000/- (Rupees Five Lakhs only) is made arbitrary and without any base. So it requires to be deleted.*

*(III) Addition of Rs. 9.96.412/-:*

*The Ld. ITO has erred in treating full receipt of commission of Rs. 9,96,412/- (Rupees Nine Lakhs Ninety Six Thousands Four Hundreds and Twelve only) as income of the assessee, not allowing a single rupee expense. When the assessee had earned such commission income, he must have had incurred expenses for earning the commission income. It is against the principle of natural justice and requires to be deleted.*

2. Facts of the case are that as per the record of the assessing officer, it is noticed that assessee has not filed return of income for assessment year 2010-11. Thereafter a letter dated 05.08.2013 along with a Performa written to the assessee requesting him to file detail in Performa enclose with the letter within 10 days of the receipt of the letter.
3. However, none appeared on behalf of the assessee. Thereafter, ld. Assessing Officer after recording the reasons and initiated action u/s. 147 and issued notice u/s. 148 on 12.03.2014 but none appeared on behalf of the assessee. The assessing officer also served notice u/s. 143(2) and 142(1) dated 08.05.2014 which were duly served on the assessee by speed post returnable on 21.05.2014 but none appeared. The ld. Assessing Officer also issued letter

dated 10.06.2014 asking him for various details as per notice u/s. 142(1) and hearing was fixed on 18.06.2014. However, assessee did not comply to letter dated 10.06.2014. A show cause notice u/s. 271(1)(b) was sent to the assessee on 03.07.2014 and hearing was fixed on 14.07.2014. However assessee did not file any reply.

4. In the interest of justice one more opportunity was given to the assessee and a letter dated 16.09.2014 was issued and served on the assessee to appear before the assessing officer on 24.09.2014 but none appeared. The assessing officer had no option but to pass an ex parte assessment and made following additions:

- (1) As per detail, for the year F.Y. 2009-10, the assessee entered into financial transaction of Rs. 95,50,000/- on June 2009, has sold out immovable property and the documents of the sale proceeds of the above amount is registered with the sub- Registrar's office Naroda, Ahmedabad. However, the assessee even though given ample opportunity did not submit any detail of the sale proceeds, therefore the entire amount of Rs. 95,50,000/- is treated as unexplained income of the assessee and penalty proceedings u/s. 271(l)(c) are initiated separately.*
- (2) In the A.Y. under consideration, the assessee entered into financial transaction in share market more than Rs. 5 lakhs share purchase and sold, but details profit earned is not shown..Therefore, the investment amounting to Rs. 5 lakhs undisclosed by the assessee is treated as income of the assessee invested in share, is added-to the total income as per the provision of section 69 unaccounted investment Penalty proceedings u/s. 271(l)(c) are initiated separately.*
- (3) From the information received on ITD, it is received that the assessee has got income as commission from Reliance Communication Ltd., Navi Mumbai of Rs. 9,96,412/-. However, the assessee has no where shown this communication*

*income for the Agency business of Reliance Communication. Since in absence of details, as regard to expenses etc. the receipt is treated as income of the assessee for the A.Y. under consideration. Accordingly, Rs. 9,96,412/- is added to the total Income of the assessee. Penalty proceedings u/s. 271(l)(c) are initiated separately.*

*With the above discussion and data made available from the records in the office of the assessee and the information from CIB and ITD, the total income of the assessee determined as under:-*

*(1) Sold of property*

*As per discussion para-1 Rs. 95,50,000/-*

*(2) Addition for investment in shares as per*

*Discussion in para-2 Rs. 5,50,000/-*

*(3) Addition on account of commission received as*

*Per discussion in para-3 Rs. 9,96,412/-*

*Total Assessed Income Rs. 1,10,96,412/-*

*Rounded off Rs. 1,10,96,410/-*

5. Against the ex parte assessment order, assessee preferred first statutory appeal before the Id. CIT(A) and it was observed by the Id. CIT(A) that Id. A.O. has noted that appellant has received Rs,95 lacs in June, 2009 on sale of immovable property however, he did not file any detail and document in support of the sale of the property.
6. During the appellate proceeding also assessee could not file any detail and document to justify that Rs. 95 lacs was received on account of sale of immovable property. Therefore, in the absence of any corroborative evidence,

- ld. CIT(A) confirmed the action of the assessing officer and Rs. 95 lacs was treated as unexplained income out of undisclosed sources.
7. So far addition of Rs. 5 lacs was concerned, on account of undisclosed in share, the assessee has not file any statement of fact regarding this ground appellant has taken alternative ground that assessing officer has mentioned the amount of Rs. 5 lacs for the share purchase and sale but he made addition of Rs. 5, 50,0000/-. Thus, ld. CIT(A) restricted the addition to Rs. 5 lacs.
  8. So far ground relating to addition of Rs. 9,96,412/- on account of undisclosed income is concerned, For that also, assessee has not filed any statement of facts. Despite of the fact that the several opportunities were given to the appellant but did not file and action of the ld. A.O. was confirmed by the ld. CIT(A). The appellant further submitted that the net income should be taken @ 8% of gross receipt of commission of Rs. 9,96,412/- same was also declined for the reason that assessee has not filed any return of income u/s. 139 or u/s. 144A. Therefore, claim of the appellant for assessing the income u/s. 44AD is not acceptable and ld. CIT(A) partly allowed the appeal of the assessee.
  9. Now assessee has come before us and filed second statutory appeal on 11.07.2018 and matter was fixed on 05.09.2019 but none appeared on the date of hearing and matter was adjourned to 02.12.2019 and notice was served through ld. D.R. but none appeared and matter was refixed on 20.01.2020 but again none appeared. Ample opportunities were given to the assessee but he has not appeared before us.

10. As we can see neither assessee filed return u/s 139 or section 148 of the Act and no submission have been made before any of the authority and there is no cooperation on behalf of the assessee.
11. In the matter of Vishnukumar Bhargav vs. ITO ITAT Jaipur in ITA No. 694/JP/2017 Tribunal has held that if assessee has not produced any evidence in support of his case. In appellate proceeding also, addition was confirmed as supportive evidenced was not submitted by the assessee. In that case, there is no error or illegality in the orders of authorities below.
12. Thus, in parity with the above said order and it appears from the conduct of assessee that he is not serious about his case and we do not have any cooperation from the assessee. Thus, we confirm the action of the ld. CIT(A) as we did not have any assistance from the assessee in the present case.
13. In the result, appeal filed by the Assessee is dismissed.

Order pronounced in Open Court on 19- 02- 2020

Sd/-

Sd/-

**(PRADIP KUMAR KEDIA)**  
**ACCOUNTANT MEMBER True Copy**  
Ahmedabad: Dated 19 /02/2020

**(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

Deputy/Asstt.Registrar  
ITAT,Ahmedabad