

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

**BEFORE SHRI PAWAN SINGH, JM & DR. A. L. SAINI, AM**

**आयकरअपीलसं./ITA No.2874/AHD/2016**

**(निर्धारणवर्ष / Assessment Year: 2012-13)**

Smt. Harshaben Mukeshbhai Patel, Ashwin Parekh & Co., Chartered Accountants, 410, Kashi Plaza, Majura Gate, Surat	Vs.	Income Tax Officer, Ward-3(3)(2), Surat
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ABEP7473K</b>		
<b>(Assessee)</b>		<b>(Respondent)</b>

Assessee by : Shri Ashwin Parekh - AR

Respondent by : Shri O P Meena – Sr. DR

**सुनवाईकीतारीख/ Date of Hearing : 03/09/2020**

**घोषणाकीतारीख/Date of Pronouncement: : 04/09/2020**

**आदेश / O R D E R**

**PER DR. A. L. SAINI, ACCOUNTANT MEMBER:**

This is an appeal by the Assessee against the order dated 26.08.2016 of CIT(A)-3, Surat, relating to A.Y.2012-13. The grievances raised by the Assessee are as follows:-

*“1. The learned CIT(A) has grievously erred in law and on facts in confirming the addition of Rs.35,32,396/- made for credit of Gift without appreciating the evidences of Gift Deed, Wealth Tax Returns of Donor – husband of Appellant, bills of jewellery purchased by her husband and explanation of Appellant. The Addition of Rs.35,32,396/- should therefore, be deleted.*

*The appellant reserves the right to add, alter, modify, amend or withdraw any of the grounds of appeal before hearing.”*

2. Learned Counsel Shri Ashwin Parekh, begins by pointing out that during the appellate proceedings, the assessee did not get the notices of hearings, therefore, assessee could not appear and plead his case before the Id. CIT(A). The Ld Counsel

stated that assessee has submitted the following address in Form No. 35, which is given below:

“Ashwin Parekh & Co.,  
Chartered Accountants,  
410, Kasha Plaza, Majura Gate, Surat.”

However, during the appellate proceedings, the ld. CIT(A) has sent the notices for hearings on the following old address :-

“43A, Saifee Society,  
L H Road, Surat “

3. The ld Counsel pointed out that since the ld CIT(A) sent the notices on 13/05/2016 and on 10/08/2016 for hearings on the old address, as stated above, therefore assessee could not receive these notices and as a result he could not the hearings. Hence, the ld. Counsel prayed the Bench that an another opportunity may be given to the assessee to plead the case either before the ld. CIT(A) or before ld Assessing Officer.

4. On the other hand, the ld. DR for the Revenue has fairly agreed that since the assessee could not get the opportunity to plead his case before the ld CIT(A) therefore an another opportunity may be given to him to plead his case either before ld CIT(A) or before ld Assessing Officer

5. We heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and perused the fact of the case including the findings of the ld CIT(A) and other materials brought on record. We noticed that ld. CIT(A) has not sent the notices for hearings on the address stated in Form No.35 ( Appeal Form), and we are of the view that this is only the address on which assessee should be communicated during the appellate proceedings but the ld. CIT(A) has failed to do so. We also note that the ld. CIT(A) did not discuss the assessee’s case on merits based on the material available before him hence it is a violation of principle of natural justice.

Considering the above facts, and in the interest of justice, we deem it fit and proper to set aside the order of the Id. CIT(A) and remit the matter back to the file of the Id. Assessing Officer to adjudicate the issue afresh on merits. For statistical purposes, the appeal of the assessee is treated as allowed.

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

Order is pronounced on 04/09/2020, as per Rule 34 of Income Tax Appellate Tribunal, Rule 1963.

Sd/-  
(PAWAN SINGH)  
न्यायिकसदस्य / JUDICIAL MEMBER

Sd/-  
(DR. A.L.SAINI)  
लेखासदस्य / ACCOUNTANT MEMBER

सूरत /Surat

दिनांक/ Date: 04/09/2020

Samanta, PS

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/The Assessee
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A),
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, सूरत / DR, ITAT, Surat
6. गार्डफाईल / Guard file.  
सत्यापितप्रति

// True Copy //

By Order

Assistant Registrar/ Sr.PS/ PS