

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “SMC” BENCH**

**(BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER
& SHRI AMARJIT SINGH, ACCOUNTANT MEMBER)
(Through Virtual Court)**

**ITA. No: 1628/AHD/2019
(Assessment Year: 2011-12)**

Ravikant Mahant, C-501, Indraprastha-7, Opp. Bodakdev Fire Station, Bodakdev, Ahmedabad- 380054	V/S	Income Tax Officer-Intl. Taxation 2, Ahmedabad
(Appellant)		(Respondent)

PAN: ADAPM1530A

**Appellant by : Shri Pratik Jain, AR
Respondent by : Shri Vidhyut Trivedi, Sr. D.R.**

(आदेश)/ORDER

Date of hearing : 28 -08-2020
Date of Pronouncement : 08-09-2020

PER MAHAVIR PRASAD, JUDICIAL MEMBER

1. This appeal filed by the Assessee is directed against the order of the Ld. CIT(A)-13, Ahmedabad dated 28.08.2019 pertaining to A.Y. 2011-12 and following grounds have been taken:

1. *The learned assessing officer has erred in law by not providing a reasonable opportunity to the assessee.*
2. *The Ld. CIT(A) has failed to observe that out of total addition sustained by him of Rs. 28,20,275/- an amount of Rs. 21,11,111/- pertains to the property sold by the assessee against which the assessee has also purchased a property and also the indexed value of the cost of purchase is also not deducted.*
3. *The Ld. CIT(A) has failed to observe that the amount of Rs. 3,31,005/- is the amount of salary received by the assessee against which TDS has been deducted and the remaining amount of Rs. 3,78,159/- pertains to the interest received by the assessee against which also TDS has been deducted.*
4. *Due to the above discrepancies the assessee requests your honour to kindly revert back the order passed by the Ld. CIT(A) and the Ld. Assessing Officer. The assessee agrees to provide all the documentary evidences within time and support the Ld. A.O. to get the rightful amount to tax and pay the dues.*
5. *The Ld. A.O. has erred in initiating penalty u/s 271(1)(c).*
6. *The Ld. assessing officer has to interpret the law liberally in view of fact and materiality based on various judgments.*

2. Brief facts of the case are that the assessee is having income from salary, business and interest. And is NRI and he had not filed his return of income for the Assessment Year 2011-12. As per information available on ITS date, following transaction during the year under consideration were made:

S. No.	Information D
1	Sale of immovable property valued at Rs. 5,00,000/- or more
2	TDS Return – interest other than interest on securities (Section 194-A)
3	TDS Return – Salary to employee (Section 192)

3. On the basis of above said information, Ld. A.O. issued a notice to the assessee and assessee is NRI, he could not appear before the Ld. A.O. and Ld. A.O.

made an assessment u/s 147 r.w.s. 144 and total income was assessed to the tune of Rs. 28,20,275/-.

4. Thereafter assessee preferred an appeal before the Ld. CIT(A). Ld. CIT(A) sent him three notices with regard to appeal, he did not appear and in the absence of any submission on behalf of the assessee. Ld. CIT(A) confirmed the action of the Ld. A.O.
5. At the outset, Ld. A.R. requested this matter may be set aside to the file of the lower authority and submitted that he has not received any notice from the office of Ld. CIT(A).
6. On the other hand, Ld. D.R. relied on the order of the Assessing Officer.
7. We have heard both the parties and perused material available on record. Undisputedly, assessee did not appear before both the lower authorities and has wasted precious time of the Revenue. In such case, we cannot set aside the matter to the lower authorities without any cost.
8. Thus, in the interest of justice, we impose a cost of Rs. 10,000/- which shall be deposited by the assessee to the Revenue and matter is set aside to the file of the Ld. CIT(A) to decide the matter after giving an opportunity of being heard to the assessee and assessee shall deposit Rs. 10,000/- on production of Rs. 10,000/- receipt with the department. Thereafter Ld. CIT(A) will proceed with the appeal and decide the matter as per provision of law.

9. In the result, appeal filed by the Assessee is allowed for statistical purposes.

Order pronounced in Open Court on	08- 09- 2020
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Sd/-

(AMARJIT SINGH)
ACCOUNTANT MEMBER True Copy
Ahmedabad: Dated 08/09/2020

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

Deputy/Asstt.Registrar
ITAT,Ahmedabad