

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

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER &
Ms. MADHUMITA ROY, JUDICIAL MEMBER**

I.T.A. Nos. 1227&1228/Ahd/2018
(Assessment Years: 2011-12 & 2012-13)

Ashit Arun Patel 5, Vipul; Apartment 27, Purshottamnagar Society, BPC Road, Vadodara-390020	Vs.	Income Tax Officer Ward-4(2)(3) Vadodara
[PAN No. AGS PP2 335 F]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Parimal Singh B Parmar, AR
Respondent by :	Shri Vidhyut Trivedi, Sr. DR

Date of Hearing	10.09.2020
Date of Pronouncement	13.10.2020

ORDER

PER Ms. MADHUMITA ROY - JM:

The instant two appeals filed by the assessee are directed against the common orders dated 17.01.2018 issued under the signature of the Commissioner of Income Tax (Appeals)-4, Vadodara arising out of the separate orders dated 20.01.2017 & 10.02.2017 under Section 154 of the Income Tax Act, 1961 (hereinafter referred as to ‘the Act’) for Assessment Years 2011-12 & 2012-13 respectively.

ITA No. 1227/Ahd/2018 (A.Y. 2011-12):-

2. The sole ground of the assessee as alleged in this appeal is not considering the revised return filed by the appellant for processing and arriving at tax liability although the same was requested to both the lower

authorities. The assessee filed his return of income for A.Y. 2011-12 on 01.08.2012, declaring his income as Rs. 11,34,680/- which was processed under Section 143(1) and finalized on 22.03.2012 upon raising demand of Rs. 1,26,570/-. In fact, the assessee filed his revised return for the year under consideration showing exempt income including the pension from Air Force available at Page 21 & 22 of the Paper Book which was missed out in the original return filed by the assessee. The grievance of the assessee is this that in spite of making request before the authorities below for taking into consideration this exempt income as mentioned hereinabove the same was not considered. Even there is no deliberation on this particular issue made by the Ld. CIT(A) in the order impugned before us. Since the assessee is entitled to those exempt income to be considered for determination of the tax liability the same has been ventilated before us. It was further submitted by the Ld. AR at the time of hearing of the appeal that the revised return filed in the subsequent assessment year was duly accepted by the Revenue but no consideration surprisingly has been made by the Revenue for the year under consideration. The Ld. AR further prays for setting aside the issue to the file of the Ld. AO for determining the tax liability upon taking into consideration the revised return filed by the assessee.

On the other hand, the Ld. DR relied upon the orders passed by the authorities below.

3. We have heard the rival submissions made by the respective parties, we have also perused the relevant materials available on record more particularly the revised return for the year under consideration

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appearing at Page 19 of the Paper Book filed before us. We have further considered the details of exempt income claimed by the assessee available at Page 21 & 22 of the Paper Book. It is a fact that it does not appear that such revise return has been considered by the lower authorities at all. Hence, in order to prevent the miscarriage of justice we find it fit and proper to remit the issue to the file of the Ld. AO for considering the same in accordance with law, upon considering the revised return filed by the assessee for the year under consideration and upon giving an opportunity of being heard to the assessee after taking into consideration the evidence on record or any other evidences which the assessee may choose to file before the Ld. CIT(A) at the time of hearing.

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

ITA No. 1228/Ahd/2018(A.Y. 2012-13):-

5. At the time of hearing of the matter the Ld. Counsel appearing for the assessee submitted that he is not pressing the matter and hence the same is disposed of as not pressed.

6. In the combined result, the appeals of the assessee are partly allowed.

This Order pronounced in Open Court on	13/10/2020
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Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER
Ahmedabad; Dated 13/10/2020
TANMAY, Sr. PS

Sd/-
(Ms. MADHUMITA ROY)
JUDICIAL MEMBER

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आदेश की प्रतिलिपि अग्रहित/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)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)

आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'SMC' अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AHMEDABAD
BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
& Ms. MADHUMITA ROY, JUDICIAL MEMEBR
आयकर अपील सं./I.T.A. Nos. 1227&1228/Ahd/2018
(निर्धारण वर्ष / Assessment Years : 2011-12 & 2012-13)

Ashit Arun Patel 5, Vipul; Apartment 27, Purshottamnagar Society, BPC Road, Vadodara-390020	बनाम/ Vs.	Income Tax Officer Ward-4(2)(3), Vadodara
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AGSPP2335F		
(Appellant/ Respondent)	..	(Respondent/Cross Objector /Appellant)

राजस्व की ओर से/Assessee by :	Shri Parimal Singh B Parmar, AR
अपीलार्थी ओर से /Revenue by :	Shri Vidhyut Trivedi, Sr. DR

सुनवाई की तारीख / Date of Hearing	10/09/2020
घोषणा की तारीख /Date of Pronouncement	03/12/2020

CORRIGENDUM

PER MADHUMITA ROY - JM:

It has come to the notice of the Tribunal that in Paragraph No. 3 on Pages 2-3 of the order sixth line on page 3 it is stated that the issue is remitted to the file of the AO. However, in the second last line of paragraph 3 of the order the reference is to CIT(A). Thus, the error crept in the second last line of Paragraph 3 of page 3 stands rectified and may be read as A.O. instead of CIT(A). This corrigendum shall form part of the main order in ITA Nos. 1227&1228/Ahd/2018 pronounced on 13.10.2020.

This Corrigendum pronounced on 03/12/2020

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER

Ahmedabad: Dated 03/12/2019 **True Copy**
TANMAY

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4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, अहमदाबाद ।