

आयकर अपील अा अधकरण, अहमदाबाद ँयायपीठ
IN THE INCOME TAX APPELLATE TRIBUNAL,
" SMC" BENCH, AHMEDABAD
(CONDUCTED THROUGH VIRTUAL COURT AT AHMEDABAD)

BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
And

Ms MADHUMITA ROY, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 1784/AHD/2018

अाधरण वष/Asstt. Year: 2015-2016

Chetankumar Ratilal Shah, 6, Pratik Apartment, Near Shilpalaya Char Rasta, Vasna, Ahmedabad-380007. PAN: AQNPS3125R	Vs.	Income Tax Officer, Ward 5(2)(1), Ahmedabad.
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(Applicant)		(Respondent)
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Assessee by :	Shri Pritesh Shah, A.R
Revenue by :	Shri S.S. Shukla, Sr. DR

सुनवाई का तारख/Date of Hearing : 19/01/2021

घोषणा का तारख /Date of Pronouncement: 16/03/2021

आदेश / O R D E R

PER WASEEM AHMED, ACCOUNTANT MEMBER:

The captioned appeal has been filed at the instance of the Assessee against the order of the Learned Commissioner of Income Tax(Appeals), Ahmedaba-5, dated 02/07/2018 arising in the matter of assessment order passed under s.143(3) of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2015-2016.

2. The assessee has raised the following grounds of appeal:

1. *The learned CIT (A) erred in law and on facts in passing the order without giving adequate opportunity of being heard.*
2. *The learned CIT(A) erred in law and on facts in confirming the disallowing of Cash Deposited to Bank amounting to Rs.16,08,000/- treating the same as unexplained cash credit u/s.69A of the Income tax Act, 1961, such disallowance is requested to be deleted.*

3. We have heard the rival contentions of both the parties and perused the materials available on record. From the preceding discussion, we note that the assessee was afforded the opportunity of being heard by the learned CIT (A) by issuing two notices dated 24th April 2018 and 31st May 2018 by way of RPAD and email. But there was no response from the side of the assessee. Accordingly the learned CIT (A), in the absence of any assistance from the side of the assessee has decided the issue based on the materials available on record by confirming the order of the AO.

4. Now, the learned AR before us has pleaded to restore the issue to the file of the learned CIT (A) for fresh adjudication and further assured the full cooperation from the side of the assessee before the learned CIT (A).

5. The learned DR has also not raised any objection if the matter is set aside to the file of the learned CIT (A) for fresh adjudication as per the provisions of law.

6. The principles of natural justice grants the right of hearing to the parties, the appellant and the respondent to avoid the arbitrariness in the finding of the concerned authority. The learned CIT (A) is expected to pass a reasoned order which is possible only after hearing the parties involved in the matter. Though the assessee failed to appear before the learned CIT (A), yet, in the interest of justice and fair play we are inclined to give one more opportunity to the assessee to place his points of contention before the learned CIT (A). However, it is important to direct the assessee to extend full cooperation in the proceedings before the learned CIT

(A) and he should not fail to comply the directions provided by him (the Id. CIT-A). In view of the matter, the ground of appeal raised by the assessee is allowed for the statistical purposes.

7. In the result the appeal filed by the assessee is **allowed for the statistical purposes.**

Order pronounced in the Court on 16/03/2021 at Ahmedabad.

**Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER**

**Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER**

Ahmedabad; Dated **(True Copy)**
16/03/2021
Manish