

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
Dr. ARJUN LAL SAINI, ACCOUNTANT MEMBER
ITA No.503/SRT/2018 (AY 2014-15)
(Hearing in Virtual Court)

Jagdish Lallubhai Shah, 604-B, Bright House, Near Agarawal Samaj Bhawan, Ghod, Dod Road, Surat-395-007 PAN:ADOPS 3694 R	Vs.	Income Tax Officer, Ward- 2(3)(7), Room No. 414, 4 th floor, Aayakar Bhavan, Anavli Business Centre, Surat.
Applicant		Respondent

Assessee by	Mr. Anil K. Shah, AR
Revenue by	Ms. Anupama Singla, Sr-DR
Date of hearing	05/07/2021
Date of pronouncement	05/07/2021

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by assessee is directed against the orders of Id. Commissioner of Income tax (Appeals)-1, Surat dated 06.06.2018 for the assessment year (AY) 2014-15. The grounds of appeal raised by the assessee are summarized as under:

- 1. The Ld. CIT(A) has erred in confirming the addition of Rs.12,60,814/- u/s 14A of the Income Tax Act, 1961.*
- 2. The Ld. CIT(A) has passed the appellate order inspite of request for consolidation of appeals with AY 2013-14 and AY 2015-16. The AR had appeared before the CIT(A) on 17th May, 2018 and informed the CIT(A) about the pending appeal for AY 2013-14 and AY 2015-16. The CIT(A) instructed the staff to consolidate the files but to my great surprise, the CIT(A) passed the appellate order in hurry.*

2. Brief facts of the case are that the assessment for the year under consideration was completed on 19.12.2016 under section 143(3). The assessing officer while passing the assessment order made addition of Rs.12,60,814/- as disallowance under section 14A. On appeal before Id. CIT(A) the action of the assessing officer was affirmed. The Id CIT(A) confirmed the order of assessing officer in *ex-parte* order by taking view that despite granting a number of opportunity the assessee failed to comply the notices. Further aggrieved, the assessee has filed present appeal before this Tribunal.
3. We have heard the learned Counsel/ authorised representative (AR/ Counsel) for the assessee and the learned senior departmental representative (Sr DR) for the revenue. The Id counsel for the assessee submits that the in response to notice issued by Ld. CIT(A), he appeared and filed application for consolidation of appeals for assessment year 2013-14 and 2015-16 as similar additions were involved. The Ld. CIT(A) instead of considering the submission for consolidation of appeals for all three years held that assessee has not made any compliance. The Ld. AR further submits that appeal for assessment year 2013-14 and 2015-16 are still pending at the file of Ld. CIT (A). The Ld. AR for the assessee submits that the assessee has good case on merit and is likely to succeed if the assessee is given opportunity of hearing and appeal is decided on merit. The Id counsel for the assessee prayed to restore the appeal to the files of learned CIT(A), with the direction to

provide one more opportunity to the assessee and he undertake on behalf of the assessee to be more vigilant in future. The learned Counsel also assured the bench to furnish his email address as well as telephone number for communication of the hearing before ld. CIT(A).

4. In alternative submission the ld. Counsel submits that the order passed by ld CIT(A) is not on merit of the case and the order of ld CIT(A) is liable to be set aside on this ground as well.
5. On the other hand the ld. Sr. DR for the Revenue submits that the assessee was given two opportunity as recorded in para 6 of the order passed by the ld. CIT(A). The assessee failed to comply with the notice issued by the ld. CIT(A). There is no finding of Ld. CIT(A) about filing of application for consolidation of appeals for earlier and subsequent assessment years. As no compliance was made by assessee, in response to notices issued by Ld. CIT(A), the ld. CIT(A) left with no option, except to proceed to decide the issue and in absence of any evidence or explanation affirm the action of AO. The learned Sr DR for the revenue prayed for dismissal of the appeal.
6. In alternative submission, the ld. Sr. DR for the Revenue submits that in case the Hon'ble bench deems it appropriate to restore the grounds of appeal to the file of ld. CIT(A), the assessee be directed to be vigilant and not to default in future in attending the proceedings and to waste the time of public authorities/ld.CIT(A).

7. We have considered the rival submission of ld. AR for the assessee and the DR for the revenue and have gone through the orders of lower authorities. We find that the ld. CIT(A) fixed the hearing on two occasions as mentioned in para 6 of the impugned order. The Ld. AR of the assessee vehemently submitted that despite filing application for consolidation of appeal for earlier and subsequent year, the Ld. CIT(A) recorded that no compliance was made. Considering the facts and the circumstances of the case, we are of the view that the assessee deserve one more opportunity of hearing at the stage of first appellate stage, accordingly the grounds of appeal raised by the assessee are restored to the file of learned CIT(A) to decide all the grounds of appeal afresh in accordance with law.
8. We also find one more reason to restore the appeal to the file of ld CIT(A) order passed by him is not in accordance with mandate of section 250(6) of the Income Tax Act. Section 250(6) of the Act mandates that the Ld. CIT(A) while deciding the appeal is required to pass order on points of determination (grounds of appeals), decision therein on and reasons for such decision.
9. Needless to order that before passing the order the ld. CIT(A) shall grant fair opportunity of hearing to the assessee. The assessee is also directed to appear before the ld.CIT(A) as and when the date of hearing and to provide all necessary evidence and information without any further delay and not to seek the adjournment without any valid reasons. The assessee is further

directed to provide his e-mail address and telephone number to make communication with him or his representative. The assessee shall file his latest address and e-mail address and his telephone number or of his representative, within fifteen days of receipt of this order in the office of assessing officer as well as before jurisdictional CIT(A). Accordingly the grounds of appeal by assessee are allowed for statistical purpose.

10. In the result, appeal of the assessee is allowed for statistical purpose. No order as to cost.

Order announced on 5th July 2021 at the time of hearing in virtual court hearing.

Sd/-

(Dr ARJUN LAL SAINI)
ACCOUNTANT MEMBER
Surat, Dated: 05/07/2021

Sd/-

(PAWAN SINGH)
JUDICIAL MEMBER

Copy to:

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR
6. Guard File

By order

Assistant Registrar, ITAT, Surat