

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
ITA No.81/SRT/2018 (AY 2013-14)
(Hearing in Virtual Court)

Shri Anil Dilipsinh Solanki, B-0, Chandra Mani society, Althan Bhatar Road, Udhna Magdhalla, Surat. PAN : ARCPS 4764 N	Vs.	The Income Tax Officer, Ward-3(1)(1), Surat.
Applicant		Respondent

Assessee by	None.
Revenue by	Ms. Anupama Singla – Sr.DR
Date of hearing	25.05.2021
Date of pronouncement	25.05.2021

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)-3, Surat dated 31.08.2017 for the assessment year (AY) 2013-14. The assessee raised the following grounds of appeal:

- “1) The Ld. CIT (Appeal) has erred in law and on facts in confirming the addition of Rs.4,25,000/- made on the ground of unexplained cash credit which was made by the Id. A.O. without issuing show cause notice for the same and thus making the impugned addition in defiance of principle of Natural Justice and fairness.
- 2) The CIT(Appeal) has erred in law and on facts in deciding the appeal of the appellant *ex parte*.
- 3) The Id. Commissioner of Income Tax (Appeals) has erred in law and on facts Confirming the addition to the tune of Rs. 4,25,000/- on the ground of unexplained Cash Credit.
- 4) The Appellant craves leave to add, amend, alter, delete, substitute or modify any or all of the grounds or Grounds of Appeal.”

2. Brief facts of the case are that assessee is individual, filed his Return of income on 29.03.2014 for assessment year under consideration, declaring total income of Rs.2,82,740/-.The case was selected for scrutiny under CASS. The assessing officer while passing the assessment order treated agriculture income of Rs. 425,000/- as unverified cash credit and added the same to the income of assessee thereby assessing total income of Rs. 707,740/-. On appeal before the Id.CIT(A), the action of AO was upheld. Further aggrieved, the assessee has filed present appeal before this Tribunal.
3. Perusal of impugned order reveals that appeal of the assessee dismissed by Id.CIT(A) as unadmitted due to non-compliance of notice, by taking view that assessee is not interest in perusing his appeal. The Id CIT(A) not adjudicated the issue on merit, rather dismissed due to non-compliance of notices. None appeared on behalf of the assessee. Thus, we decided to hear the submissions of Id. DR for the revenue and adjudicate the appeal on the basis of the material available on record.
4. The Id. Sr.DR for the Revenue submits that the assessee was given four opportunity as recorded in page 6 of the order passed by the Id.CIT(A). The assessee failed to comply with the notice issued by the Id.CIT(A). The Id.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. In alternative submission, the Id.Sr.DR for the Revenue submits that in case the Hon'ble Tribunal is deem appropriate, the assessee be directed to

be vigilant and not to default in attending the proceedings and to waste the time of public authorities/ld.CIT(A).

5. We have considered the rival submission of ld. DR for the revenue and have gone through the orders of Lower Authorities. We find that the ld. CIT(A) fixed the hearing on 21.07.2016 and the notice was sent through speed post on 13.07.2017. It is recorded by ld. CIT(A) that no compliance was made by the assessee. However, find that the ld CIT(A) has not recorded his satisfaction that the notice sent through speed post was duly served on the assessee or not. We instead of going into controversy, whether the assessee defaulted in attending the proceedings despite service of notice or not, before the ld.CIT(A). We find that the order of the ld.CIT(A) 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. Therefore, considering the facts and circumstances of the case, the appeal of the assessee is restored back to the file of the ld.CIT(A) to decide all the grounds of appeal on merit in accordance with law. 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.

Accordingly the grounds of appeal by assessee are allowed for statistical purpose.

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

Order announced on 25th May 2021 at the time of hearing in virtual court hearing.

Sd/-
(Dr ARJUN LAL SAINI)
ACCOUNTANT MEMBER

Surat, Dated: 25/05/2021 / SGR

Copy to:

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

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

By order

Assistant Registrar, ITAT, Surat