

**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: 599/Ahd/2019  
(Assessment Years: 2014-15)**

<b>Gautam Vijaykumar Mehta 22, Sundaram Park Society, B/h Mangalam Dairy, Anand</b>	<b>V/S</b>	<b>I.T.O., Ward-2, Anand</b>
<b>PAN No. ACZPM5076F</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

**Appellant by : Shri Sanjay R. Shah, A.R.  
Respondent by : Shri R. R. Makwana, Sr. D.R.**

**(आदेश)/ORDER**

Date of hearing : 12-10-2021  
Date of Pronouncement : 29-10-2021

**PER MAHAVIR PRASAD, J.M.**

1. This appeal has been filed by the Assessee is directed against the order of the Ld. CIT(A) vide Appeal No. CIT(A)-Vadodara-4/10446/2016-17 order dated 07/02/2019 arising out of assessment order dated 09/12/2016. The assessee has taken following grounds of appeal:

- 1) *The Learned Commissioner of Income Tax (Appeals)-4, Vadodara has erred in law and on facts of the case in confirming the order of the Assessing Officer with regard to the treatment of amount of Rs.9,05,432/- as salary income.*
- 2) *The Learned Commissioner of Income Tax (Appeals)-4, Vadodara has erred in law and on facts of the case in confirming the order of the Assessing Officer disallowing business expenditure of Rs. 13,86,290/-.*
- 3) *Your Appellant prays to reserve the right to add, alter, amend and/or withdraw any of the above grounds of appeal.*

2. In this case, assessee is a salaried person and also earning income from other sources.
3. During the year under consideration As per AS, the TDS has been deducted u/s. 192A by the Employer which evidently proves that the assessee is receiving salary from his employer i.e. LIC of India. The assessee's contention that neither a single submission by AR has been considered is totally wrong. The show cause has been issued after submission being taken into consideration. The show cause was issued on facts. As the assessee has not furnished any proof that the assessee has received income in form of other than salary. The employer paid him salary in relation of employment. The self-certifying fact of the addition is that the Employer deducted TDS u/s.192, which is specified for TDS made for the payment made under head "Salary". So the assessee's contention has no that the submission made by A/R has not been taken into consideration. Therefore, the amount of Rs. 13,86,290/- as per discussion made above .is disallowed and added to the total income of the assessee.
4. Against the said order, assessee preferred first statutory appeal before the Ld. CIT(A). Ld. CIT(A) sent nine notices to the assessee but assessee did not file any reply before the Ld. CIT(A). Therefore, Ld. CIT(A) had to pass an ex-parte order and confirmed the action of the Assessing Officer.
5. Now assessee has come before us by way of second statutory appeal and at the outset, Ld. A.R. argued that on account of compelling circumstances, assessee could

not appear before the Ld. CIT(A). Therefore, in the interest of justice, this matter may kindly be set aside to the file of the Ld. CIT(A).

6. We have heard both the parties and we are of the considered opinion that this case may be set aside to the file of the Ld.CIT(A) subject to the condition that assessee shall pay penalty of Rs. 5,000/- to the Department as he has wasted precious time of the Ld. CIT(A) and penalty of Rs. 5,000/- shall be deposited by the assessee within 60 days from the receipt of this order. Thereafter, Ld. CIT(A) shall proceed with the appeal and assessee is also directed to appear before the Ld. CIT(A) on each and every date and file his submission. Thereafter Ld. CIT(A) shall pass detailed and reasoned order as per law.
7. In the result, appeal filed by the Assessee is allowed for statistical purposes.

Order pronounced in Open Court on 29- 10- 2021

**Sd/-**  
**(AMARJIT SINGH)**  
**ACCOUNTANT MEMBER**     **True Copy**  
Ahmedabad: Dated 29/10/2021

**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