

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

**BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER AND
Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

(Conducted through Virtual Court)

**ITA No.588/Ahd/2019
Assessment Year: 2009-10**

Jagdishkumar Shantilal Patel,
C/o. S.V. Agrawal & Co., C.A.
502, Mangal Murti Complex,
Opp. City Gold Cinema,
Ashram Road,
Ahmedabad.
[PAN – BACPP 4055 M]
(Appellant)

vs.

Income Tax Officer,
Ward-1, Patan.

(Respondent)

Appellant by : None
Respondent by : Shri Shaurya S. Shukla, D.R.

Date of hearing : 23.03.2022
Date of pronouncement : 13.04.2022

ORDER

PER SUCHITRA KAMBLE, JUDICIAL MEMBER :

This appeal is filed by the assessee against the order dated 22.01.2019 passed by the CIT(A)-13, Ahmedabad for the Assessment Year 2009-10.

2. The grounds of appeal are as under:

- “1. *Learned CIT(A)-13 had passed exparty appellate order u/s.250 in as much as Notice of hearing of appeal was not received.*
2. *Learned CIT(A) had erred in confirming reopen of assessment u/s. 147 of the Act.*
3. *The learned CIT(A) -13 had erred in not deciding appeal on merits and further erred in confirming addition made by A.O. of Rs.8,47,510/- being cash deposited in bank a/c. with Ranuj Nagrik Co-operative Bank, Patan.*

4. *The learned CIT(A) had erred in not considering that appellant was selling milk of Dudh Sagar Dairy – Mehsana District Co-operative Milk Producer Sang Ltd to customers. And the cash was deposited in bank account out of said transactions.*
5. *The learned CIT(A) has also erred in confirming the interest charged by AO u/s. 234A of Rs.1,42,680/- and 234B of Rs.1,52,520/-.”*

3. In this case, the assessment order under Section 144 read with Section 147 of the Income Tax Act, 1961 was passed on 08.12.2016 thereby making an observation that during the year under consideration, the assessee made total cash deposit of Rs.18,91,590/- in the Savings Bank Account of the Ranuj Nagrik Co-operative Bank, Patan. During the assessment proceedings, none appeared on behalf of the assessee and no evidence was filed before the Assessing Officer by the assessee. After going through the bank statement, the Assessing Officer observed that the assessee made certain withdrawal out of the cash deposit and thus the peak credit worked out to Rs.8,47,510/- and the same was added to the income of the assessee.

4. Being aggrieved by the Assessment Order, the assessee filed appeal before the CIT(A). Before the CIT(A) the assessee filed condonation of delay along with certain submissions but none appeared before the CIT(A). The CIT(A) dismissed the appeal thereby confirming the addition.

5. At the time of hearing, despite giving notice to the assessee, none appeared on behalf of the assessee at the time of hearing. Therefore, we are proceeding on the basis of the submissions made before the CIT(A) by the assessee.

6. The Ld. D.R. relied upon the assessment order and the order of the CIT(A).

7. We have heard the Ld. D.R. and perused the materials available on record. Since the appeal was dismissed ex-parte without giving any detailed observation by the CIT(A), it will be appropriate to remand back the appeal to the file of the CIT(A) for proper adjudication of the issues contested by the assessee before the CIT(A). The assessee will remain present during the course of hearing before the CIT(A) and will co-operate with the Appellate Authority. If the assessee did not appear during the

hearing and represent the case properly, the CIT(A) will take the cognisance and decide the case on merit.

8. In the result, appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on this 13th day of April, 2022.

Sd/-
(ANNAPURNA GUPTA)
Accountant Member

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 13th day of April, 2022

PBN/*

Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad