

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'A' अहमदाबाद ।

**IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, AHMEDABAD**

**BEFORE SHRI P.M. JAGTAP, VICE-PRESIDENT
AND SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER**

**ITA Nos. 4 & 5/Ahd/2022
Assessment Years : 2015-16 to 2016-17**

Shree Kadi Nagarik Sahakari Bank Ltd., Head Office, Gunj Bazar, Kadi, Tal. Kadi, Gujarat-382715 PAN : AAAAS 8659 J	Vs	ACIT, Mehsana Circle, Mehsana
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		None
Revenue by :		Shri S.S. Shukla, Sr. D.R.

सुनवाई की तारीख/Date of Hearing : 02/05/2022
घोषणा की तारीख /Date of Pronouncement: 06/05/2022

आदेश/O R D E R

PER P.M. JAGTAP, VICE-PRESIDENT :

These two appeals filed by the assessee are directed against two separate orders of the learned Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre ("CIT(A)" in short), both dated 20.12.2021, passed *ex-parte* whereby he confirmed the penalty of Rs.4,41,300/- and Rs.4,04,700/- imposed by the Assessing Officer for Assessment Years 2015-16 and 2016-17 respectively.

2. The assessee, in the present case, is a Co-operative Bank. In the spot verification conducted by the office of the Additional Director of Income Tax (Intelligence & Criminal Investigation), Ahmedabad on 23.10.2019 in the office of the assessee-bank, it was revealed that AIR data for the FYs 2014-15 and 2015-16 relevant to AYs 2015-16 and 2016-17 respectively was not furnished by the assessee-bank as per Rule 114E of the Income-tax Rules. The Additional Director of Income-Tax, therefore, initiated penalty proceedings under Section 271FA of the Income-tax Act, 1961 ("the Act" in

short) for both the years under consideration and since the explanation offered by the assessee-bank in response to the show-cause notices issued by him during the course of the said penalty proceedings was not found acceptable, the Addl. Director of Income Tax proceeded to impose penalty of Rs.4,41,300/- and Rs.4,04,700/- under Section 271FA of the Act for AYs 2015-16 and 2016-17 respectively.

3. The penalty imposed by the Addl. Director of Income Tax under Section 271FA of the Act for both the years under consideration was challenged by the assessee in appeal before the learned CIT(A) and since there was no response on the part of the assessee to the notices issued by him during the course of appellate proceedings, the learned CIT(A) dismissed the appeals of the assessee vide his impugned orders passed *ex-parte* thereby confirming the penalty imposed by the Assessing Officer under Section 271FA of the Act for the two years under consideration. Aggrieved by the orders of the learned CIT(A), the assessee has preferred these appeals before the Tribunal.

4. At the time of hearing fixed in these cases today, none has appeared on behalf of the assessee. It is, however, observed that the appeals filed by the assessee before the learned CIT(A) challenging the action of the Assessing Officer in imposing penalty under Section 271FA of the Act for both the years under consideration were dismissed by the learned CIT(A) vide his impugned orders passed *ex-parte* without giving proper and sufficient opportunity of being heard; and, this position, as clearly evident from the impugned orders of the learned CIT(A), has not been disputed even by the learned DR. A perusal of the impugned orders of the learned CIT(A) shows that even the relevant details giving the exact number of opportunities given by him to the assessee to file written submission/reply

are not given in order to show that proper and sufficient opportunity was afforded by him to the assessee to file written submission/reply. We, therefore, find it fair and proper and in the interest of justice to set aside the impugned orders passed by the learned CIT(A) confirming the penalty imposed by the Assessing Officer under Section 271FA of the Act for both the years under consideration and remit the matter back to him for disposing of the appeals of the assessee on merit after giving proper and sufficient opportunity of being heard. The assessee is also directed to make due compliance before the learned CIT(A) and file the written submission/reply by availing the opportunity to be given by the learned CIT(A) so that the appeals can be disposed of expeditiously.

5. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the Court on 6th May, 2022 at Ahmedabad.

Sd/-

(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

Ahmedabad, Dated 06/05/2022

SR

Sd/-

(P.M. JAGTAP)
VICE-PRESIDENT

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधिआयकर अपीलीय अधिकरण ,/DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

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आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण
ITAT, Ahmedabad