

**IN THE INCOME TAX APPELLATE TRIBUNAL,
RAJKOT BENCH, RAJKOT**

**BEFORE SHRI P.M. JAGTAP, VICE-PRESIDENT
AND SHRI MAHAVIR PRASAD, JUDICIAL MEMBER**

**ITA Nos. 150, 151 & 152/Rjt/2022
Assessment Years : 2010-11, 2011-12 & 2012-13**

Shri Dhilan Bhupatrai Bhatha, "Shree", Gunatitnagar Main Road, B/h. Raiya Telephone Exchange, 150 Feet Ring Road, Rajkot - 360005 PAN : AIDPB 8256 E	Vs	Income Tax Officer, Ward-1(1), Jamnagar
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		Shri Ranjeet Lalchandani, AR
Revenue by :		None

सुनवाई की तारीख/Date of Hearing : 13/05/2022
घोषणा की तारीख /Date of Pronouncement: 25/05/2022

आदेश/O R D E R

PER BENCH:

These three appeals filed by the assessee are directed against three separate orders passed by the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ("CIT(A)" in short), all dated 16.03.2022 passed for Assessment Years 2010-11, 2011-12 and 2012-13; and, since the issues involved therein are common, the same have been heard together and are being disposed of by a single consolidated order for the sake of convenience.

2. The assessee, in the present case, is an individual. For all the three years under consideration i.e. AYs 2010-11, 2011-12 and 2012-13, no return of income was filed by the assessee in the regular course. In response to the notice issued by the Assessing Officer, no return of income for the years under consideration was filed by the assessee. As per the information received by the Assessing Officer, the assessee had entered into cash

transactions of more than Rs.1 lac in the years under consideration. Notices under Section 148 of the Act were issued by the Assessing Officer to the assessee. In response to the said notices, returns of income for the years under consideration were filed by the assessee declaring income/loss under the head "capital gain". During the course of assessment proceedings, the Assessing Officer found that the banks accounts were maintained by the assessee with Co-operative Bank of Rajkot Ltd and Bank of India which contained many credit entries including the entries for cash deposits. After giving the assessee an opportunity to offer his explanation in the matter and after taking the same into consideration as well as the material available on record, assessments for all the three years under consideration were completed by the Assessing Officer vide orders dated 09.03.2016 passed under Section 143(3) r.w.s. 147 of the Act determining the total income of the assessee as under:-

AY 2010-11	i) Short Term Capital Gain - Rs. 2,68,090/ ii) Addition under Section 68 of the Act - <u>Rs. 31,18,120/</u> Total <u>Rs.33,86,210/-</u>
AY 2011-12	Addition under Section 68 of the Act - Rs.58,65,320/-
AY 2012-13	Addition under Section 68 of the Act - Rs.42,57,500/-

3. Against the orders passed by the Assessing Officer under Section 143(3) r.w.s. 147 of the Act for all the three years under consideration, appeals were preferred by the assessee before the learned CIT(A) and the learned CIT(A) vide his impugned orders passed *ex parte* dismissed the said appeals on the ground that the relevant documents such as order appealed against, notice of demand and challan for payment of appeal fees were not furnished by the assessee and even there was no compliance on the part of the assessee to the notices issued by him fixing the appeals for hearing on

three different occasions. Aggrieved by the orders of the learned CIT(A), the assessee has preferred these appeals before the Tribunal.

4. At the time of hearing of these appeals today, none is present on behalf of the Revenue. The learned Counsel for the assessee has submitted that none of the notices stated to be issued by the learned CIT(A) fixing the appeals of the assessee for hearing before him on three different occasions was received by the assessee and such non-receipt of notices was the reason for non-compliance of the assessee to the said notices. He has also submitted that all the relevant documents such as order appealed against, notice of demand and challan for payment of appeal fees were duly filed by the assessee in the physical form and in fact a notice for physical hearing on the basis of documents was issued by the CIT(A), Jamnagar and the matter is still pending before the learned CIT(A), Jamnagar. Keeping in view these submissions made by the learned Counsel for the assessee, we consider it fair and proper and in the interest of justice to set aside the impugned orders passed by the learned CIT(A) *ex parte* for non-prosecution without going into the merit of the case and remit the matter back to CIT(A) for disposing of the appeals of the assessee afresh on merit by passing a well reasoned and well discussed order after giving the assessee proper and sufficient opportunity of being heard.

5. In the result, all the three appeals of the assessee are treated as allowed for statistical purposes.

Order pronounced in the open Court on 25th May 2022 at Ahmedabad.

Sd/-

(MAHAVIR PRASAD)
JUDICIAL MEMBER

Ahmedabad, Dated 25/05/2022

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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, Rajkot,
6. गार्ड फाईल /Guard file.

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आदेशानुसार/ BY ORDER,

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