

**आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'A' अहमदाबाद**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"A" BENCH, AHMEDABAD**  
**BEFORE SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER**  
**AND**  
**SHRI MAHAVIR PRASAD, JUDICIAL MEMBER**

**ITA No.986/Ahd/2018**  
**Assessment Year : 2009-10**

Smt.Nitaben Shaileshbhai Patel A/14, Snehadari Apartments Shreyas Tekra, Ambawadi Ahmedabad 380 015. PAN : AGXPP 3551 G	The ITO, Ward-5(2)(3) Ahmedabad.
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(Applicant)	(Responent)
Assessee by :	Written Submission
Revenue by :	Shri Urjit Shah, Sr.DR

सुनवाई की तारीख/Date of Hearing : 08/06/2022  
घोषणा की तारीख /Date of Pronouncement: 08 /08/2022

**आदेश/ORDER**

**PER ANNAPURNA GUPTA, ACCOUNTANT MEMBER**

Present appeal has been filed by the Assessee against order passed by the Id.Commissioner of Income-Tax (Appeals)-5, Ahmedabad [hereinafter referred to as "CIT(A)"] dated 6.2.2018 under section 250(6) of the Income Tax Act, 1961 ("the Act" for short) pertaining to the Asst.Year 2009-10.

2. None appeared on behalf of the assessee. Written submission and paper book comprising certain documents were however filed today (date of hearing) before us. Case records reveal that another paper book comprising of 15 pages was also filed on 25.8.2021 before us.

3. We have noted from order sheet entries of the hearing of the appeal before us, that the appeal was instituted on 18.4.2018 and repeated adjournments were sought on behalf of the assessee for some reasons or other. Today when the appeal was called out for hearing only written submissions were filed and as noted above, none appeared on behalf of the assessee. Considering the aforesaid fact that the assessee has made no attempt to argue its appeal before us in the four years which have elapsed since the institution of the appeal and in the absence of any prayer of the assessee seeking adjournment to day, the appeal was proceeded to be decided on the basis of the written submissions filed before us.

4. We have noted from orders of the authorities below that the assessee has remained non-cooperative throughout assessment and also appellate proceedings. Both the assessment order and appellate orders are *ex parte* orders passed after noting the fact of non-compliance by the assessee to various notices issued to it by the lower authorities.

5. We have noted from the orders of the authorities below that the assessee's case was reopened under section 147 of the Act on account of cash deposits in her bank account and in the absence of any explanation thereof, addition accordingly was made of the cash deposits amounting to Rs.18,63,000/- and further on account of sundry creditors amounting to Rs.81,24,561/-which remained unexplained. The assessee had originally filed return of income of Rs.1,39,140/- and the impugned addition made by the AO resulted in assessed income at Rs.1,01,26,701/-. These additions were upheld by the Id.CIT(A) also in the absence of any justification or pleadings against the same made by the assessee before him.

Before us also, as we have noted above, the assessee has chosen not to prosecute her case despite repeated opportunities given on several occasions. However, we have gone through the written submission filed before us, and on perusal of the same, we find that the assessee has contended that she was in the business of trading in shares in BSE and NSE and had returned profits on the such business in her return of income. She has further pleaded that assessment as well as appellate proceedings remained unattended on account of the fact that she was an illiterate person, being only 12<sup>th</sup> pass, and had appointed a counsel to appear on her behalf before Income Tax Authorities handing over all books of accounts and documents to the counsel, and she was under the belief that her case was being represented by the counsel. It is stated in her submissions that she was unaware of the fact that her authorized representative had not attended the hearing before the AO and the CIT(A). The assessee has further pleaded in the submissions that all cash deposits in the bank as also sundry creditors can be duly explained to be related to share trading business of the assessee only, if given an opportunity, and if the appeal is restored to the IT authorities for reconsideration afresh. It is also pleaded that certain documents, being copy of ITR, copy of the bank statement, DEMAT and books of accounts of the assessee had been submitted for verification. The assessee has also filed copies of her profit & loss account and balance sheet, letters written to her authorized representative, Mr. Rakesh Bhatt, to hand over the income-tax files as also speed post receipt as proof of sending this letter. Copy of the letter filed to the IT authorities for obtaining copies of documents were also filed, and also affidavit of the assessee affirming on oath the facts as narrated above relating to the circumstances leading to the non-attendance of the proceedings before the IT authorities. All

these documents were filed in the paper book filed before us today. In the paper book filed before us on 25/08/21, we find that there are certain ledger accounts of brokers, and confirmation of one Mr.Sushil Zaveri.

We are not inclined to accept the plea of the assessee. The reasons for the same being that, the assessee has chosen to make this plea of restoring her matter to the lower authorities before us without even making any effort to substantiate the explanation offered. All documents filed before us in support of her case as mentioned above are only stated as being “*true-copies*”. Even the affidavit filed by the assessee before us, stating allegedly on oath the reason for non compliance to notices of authorities below, we find, is not original copy, but only mentioned as “*true copy*”. Such documents have no evidentiary value. It is the assessee who has sought redressal of her grievance against orders of the IT authorities by filing appeal before us. The assessee cannot sit back after filing the appeal seeking adjournment time and again and by simply filing written submissions to make a plea totally unsupported and unsubstantiated. It seems that the assessee has chosen to ignore the gravity of the situation despite being aware of it, which is evident by the fact that she has repeatedly filed appeal before the first appellate authority and also before us. Further, looking to the non-cooperative attitude of the assessee right from the very beginning i.e. the assessment proceedings, we are not inclined to show any liberty to such an assessee who does not appear to be interested to fight for her own cause.

Since there is nothing before us dislodging the Ld.CIT(A)’s order we uphold the order of the ld.CIT(A) confirming additions of

both cash deposits of Rs.18,63,000/- and sundry creditors of Rs.81,24,561/-. Grounds of appeal of the assessee are rejected.

6. In the result, appeal of the assessee is dismissed.

**Order pronounced in the Court on 8<sup>th</sup> August, 2022 at Ahmedabad.**

**Sd/-  
(MAHAVIR PRASAD)  
JUDICIAL MEMBER**

**Sd/-  
(ANNAPURNA GUPTA)  
ACCOUNTANT MEMBER**

Ahmedabad, dated 08/08/2022