

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT
(Conducted through E-Court at Ahmedabad)**

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

**ITA No.339/RJT/2018
Assessment Year: 2014-15**

Shri Rushikesh Mukundbhai Kalyani, vs. The Income Tax Officer,
342/343, Vitt Bhawan, Ward – 1(1)(5), Rajkot.
3rd Floor,
Above ICICI Bank,
Gondal Road,
Rajkot – 360 002.
[PAN – AQRPK 8319 B]
(Appellant) (Respondent)

Appellant by : Shri Kamal Bhambhani, Ld. AR
Respondent by : Shri B.D. Gupta, Ld. Sr. D.R.

Date of hearing : 25.07.2022
Date of pronouncement : 26.08.2022

ORDER

PER SUCHITRA KAMBLE, JUDICIAL MEMBER :

This appeal is filed by the assessee against the order dated 13.07.2018 passed by the CIT(A)-1, Rajkot for the Assessment Year 2014-15.

2. The assessee has raised the following grounds of appeal:

- “1.0 The grounds of appeal mentioned hereunder are without prejudice to one another.
- 2.0 The Commissioner of Income Tax (Appeals)-I, Rajkot (hereinafter referred to as the "Ld. CIT(A)" has erred in law by dismissing the appeal in toto without providing sufficient opportunity of being heard to the appellant.
- 3.0 The Ld. CIT(A) has grievously erred in dismissing appeal without taking cognizance of appellant's documents and contentions. The Ld. CIT(A) ought to have judiciously considered the matter taking into account the appellant's submission.

The order of the Ld. CIT(A) is baseless and totally unwarranted under the circumstances and facts of the appellant's case and deserves to be quashed and therefore may kindly be quashed."

3. The assessee filed return of income on 11.10.2014 declaring total income of Rs.3,29,80/-. The Assessing Officer observed that from the Profit & Loss Account the assessee claimed several expenses and thus notice was issued to the assessee to explain the same. The Assessing Officer made addition of Rs.1,60,412/- in respect of disallowance of 10% of expenses. The Assessing Officer also made addition of Rs.8,35,250/- in relation to commission payment, addition of Rs.77,762/- towards interest expenses and addition of Rs.7,80,000/- towards unexplained cash credit.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. Ld. AR submitted that the assessee filed additional evidences during the appellate proceedings which were not admitted under Rule 46 of the Income Tax Rules, 1962 by the CIT(A). Ld. AR submitted that the additional evidence should have been admitted and the remand report should have been called for from the Assessing Officer to decide the case properly by the appellate authority. Thus the Ld. AR contended that no opportunity of hearing or explanation was given by the CIT(A) to the assessee and it is violation of principles of natural justice.

6. Ld. DR relied upon the Assessment Order and the Order of the CIT(A).

7. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that the assessee has filed additional evidences under Rule 46A of the Income Tax Rules, 1962 but the same was not admitted by the CIT(A) despite looking into the same, and not adjudicated the issues before the CIT(A). Thus, proper opportunity was not granted to the assessee. Therefore, in the interest of justice, it will be appropriate to remand back these issues to the file of the CIT(A) and take cognisance of the additional evidences thereby admitting the same and after calling for remand report from the Assessing Officer the issues in hand

should be adjudicated on merit. Needless to say the assessee be given opportunity of hearing by following principles of natural justice. Appeal of the assessee is thus partly allowed for statistical purposes.

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

Order pronounced in the open Court on this 26th day of August, 2022.

Sd/-
(ANNAPURNA GUPTA)
Accountant Member

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 26th day of August, 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
Rajkot Bench, Rajkot