

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

**BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

I.T.A. No.77/Ahd/2020  
(Assessment Year: 2011-12)

Shri Mahendrabhai Chinubhai Patel, Block No. A/2 101, Satva Appartment, Near Hanspur Residency, Naroda, Ahmedabad-382330	Vs.	Income Tax Officer, Ward-5(1)(3), Ahmedabad
[PAN No.AIDPP4600N]		
(Appellant)	..	(Respondent)

<b>Appellant by :</b>	Shri Pritesh L. Shah, A.R.
<b>Respondent by:</b>	Shri Rakesh Jha, Sr. DR

<b>Date of Hearing</b>	13.09.2022
<b>Date of Pronouncement</b>	28.10.2022

**ORDER**

This appeal is filed by the assessee against the order dated 29.11.2019 passed by the Ld. CIT(Appeals)-5, Ahmedabad for A.Y. 2011-12.

2. The grounds of appeal raised by the assessee read as under:

“1. The learned CIT(A) erred in law and on facts in confirming the addition of Rs.18,30,000/- being the amount of cash deposited to the Bank considering the same as undisclosed under section 69 of the Income Tax Act 1961, such addition is requested to be deleted.

2. The learned Assessing Officer erred in law and on facts in passing the Assessment Order under section 144 r.w.s. 147 of the Income Tax Act 1961, without issuing notice under section 143(2) of the Income Tax Act 1961, inspite of the fact that Assessee has filed his Return of Income, such Assessment order is requested to be quashed.”

3. The case of the assessee was reopened for scrutiny for the reason that the assessee has cash deposited Rs. 10,00,000/- or more in saving bank account and not filed the return as per information available in the Revenue Office. In view of this escapement of income after obtaining the necessary approval of the Principal PCIT, notice Under Section 148 of the Act was issued on

27.03.2018 which was duly served upon the assessee. In response to the same notice, the assessee filed his return of income on 17.09.2018 declaring total income of Rs. 37,089/-. The Assessing Officer made addition of Rs. 18,30,000/- treating the same as assessee's income from undisclosed source.

4. Being aggrieved by the Assessment Order the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal.

5. The Ld. A.R. submitted that the assessee has filed appeal before the CIT(A) with delay of 70 days as the assessee was not well, for which the assessee has filed the Medical Reports before the CIT(A). The Ld. A.R. submitted that assessment order was passed on 19.11.2018 and deliver to assessee's wife on 29.11.2018, 30 days expires on 29.12.2018 and the appeal was delayed by 70 days. The CIT(A) has not decided the issue on merit and dismissed the appeal on delay ground itself. The Ld. A.R. submitted that the Assessing Officer also has not taken cognizance of the details of cash deposits filed before the Assessing Officer and passed order under Section 144 r.w.s. 147 of the Act. The Ld. A.R., therefore, prayed that the matter may be remanded back to the file of the Assessing Officer.

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

7. Heard both the parties and perused all the relevant materials available on record. It is pertinent to note that the assessee has explained the delay in filing the appeal before the CIT(A), but the CIT(A) has not taken cognizance of the genuine reason set out by the assessee. The CIT(A) has not decided the appeal on merit and after perusal of the Assessment Order it is seen that the

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Assessing Officer has not taken cognizance of the details filed during the assessment proceedings. It will be appropriate to remand back the issue contested herein on merit to the file of the Assessing Officer for proper verification of the evidences put up before the Assessing Officer. Needless to say the assessee be given opportunity of hearing by following principle of natural justice. The appeal of the assessee is partly allowed for statistical purposes.

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

**This Order pronounced in Open Court on 28/10/2022**

Sd/-  
**(Ms. SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

Ahmedabad; Dated 28/10/2022

TANMAY, Sr. PS

**TRUE COPY**

**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 प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad