

आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट
**IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT**

(Conducted Through Virtual Court)

**BEFORE SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER
AND
SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER**

**ITA No.167/RJT/2017
Assessment Year :2008-09**

Jalaram Cottex Ahmedabad Highway Jasdan.	Vs	ACIT, Cir.2 Rajkot.
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(Applicant)		(Responent)
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Assessee by :	None
Revenue by :	Shri B.D. Gupta, Sr.DR

सुनवाई की तारीख/Date of Hearing : 10/01/2023
घोषणा की तारीख /Date of Pronouncement: 18/01/2023

आदेश/O R D E R

PER ANNAPURNA GUPTA, ACCOUNTANT MEMBER

The present appeal has been filed by the assessee against the order passed by the Commissioner of Income Tax (Appeals)-2, Rajkot (in short referred to as CIT(A)), dated 27.02.2017 pertaining to Assessment Year 2008-09 under section 250(6) Income Tax Act, 1961 ("the Act" for short).

2. At the time of hearing, neither the assessee nor any of its representative came present before us. In fact the assessee has not authorized any advocate to represent his case before us since the records reveal no power of attorney filed by the assessee. It is further noticed that the appeal of the assessee was instituted way back on 18.5.2017 and thereafter, the case of the assessee was

listed on four occasions, but on none of the occasions, the assessee attended the hearing. Notice sent on 19.10.2022 by RPAD post to the assessee was returned by the postal authority with the remark "left". On 16-12-2022 the notice was served by the Department by affixture and evidence filed before us. The assessee has not intimated the Registry about change of address if any. Even in appellate proceedings before the Ld.CIT(A) the assessee, we have noted, remained unrepresented. In this view of the matter, it is evident that the assessee is not interested in pursuing its appeal, and accordingly, we proceed to adjudicate the appeal ex parte.

3. The grounds raised by the assessee in the appeal read as under:

"1. The grounds raised in this appeal are without prejudice to one another.

2. The learned A.O. grievously erred in law and on facts in reopening the assessment when the same was not warranted /on the facts of the case and was not in accordance with law, and the Ld.CIT(A) erred in law and on facts in accepting the action of the A.O. in this regard.

3. The learned A.O. erred in law and on facts in making the reference of the valuation cell for the valuation of the property when the same was not in accordance with law and not warranted on the facts of the case.

4. The learned A.O. erred in law and on facts in making the addition of Rs.5858913/- in respect of in difference of valuation of the property as made by the A.V.O. / D.V.O. and as per the assessee's records and the Ld.CIT(A) erred in upholding this action of the Ld.A.O. The same deserves to be deleted.

5. The learned A.O. & Ld.CIT(A) erred in law and on facts in making various incorrect averments in the order under appeal when the same was not supported by the facts of the case and was not in accordance with law."

4. There are two issues involved in the appeal of the assessee viz. validity of the reopening of the assessment and making addition of Rs.58,58,913/- in respect of difference of valuation of the property.

5. So far as first issue regarding validity of reopening of the assessment is concerned, we find that the ld.AO has dealt with the

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objection of the assessee to the reopening of the case u/s 147 of the Act at para-3 of his order. After considering the reply of the assessee the Id.AO held that the reassessment proceedings were proper and in conformity with law. The AO's finding to this effect reads as under:

"3. On receipt of notice u/s.148, assessee vide reply dated 26-03-2012 strongly contend that the re-assessment proceedings for the aforesaid year is not justifiable in law and is without jurisdiction. However, it is stated that the returns filed u/s.139(l) vide ack. No.44939370300908 dated 30-09-2008 may be treated as return filed in response to notice u/s.148 of the I.T. Act. Reply to the objections raised was given to the assessee vide this office letter dated 22-06-2012 as under:

"The undersigned has gone through the letter filed by you. As per this letter you have objected to reassessment proceedings on the basis that notice u/s 148 is not justifiable in law and is without jurisdiction. These objections are very general and routine in nature-without pointing out any specific objection to the reassessment proceedings. Still reply to your objection is as follows:

1) It is to be noted that notice u/s 148 was issued on 2/3/2012 and served on 4/3/2012 after recording reasons for reopening the case. The reasons recorded for reopening the case have been served to you along with the notice u/s 148. As the case pertains to A. Y. 2008-09, the notice has been issued within 4 years from the end of relevant assessment year.

2) It has also to be mentioned that reasons recorded for reopening furnished to your good self earlier are well founded on facts and on the basis of new information received. So the satisfaction of AO was proper and based on relevant information.

3) Hence it is submitted that reassessment proceedings are proper and in conformity in law well. Your objections to the notice u/s 148 are disposed off herewith. Further cooperation from your side in the ongoing reassessment proceedings is requested as it is a time barring matter.

You are therefore required to appear before me in person or through authorized representative to discuss the case on 2/7/2012 at 11 a.m. and this should also be treated as notice u/s 143(2). "

6. So far as second issue relating to the merits of the case against addition of Rs.58,58,913/- made on account of difference in the value of assets declared by the assessee and the value of the same as per the DVO's report, the assessee raised objections against the

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valuation of the DVO which was forwarded to the DVO but the DVO while rejecting the objection, confirmed the valuation so worked out. Accordingly, the AO added the same to the total income of the assessee-firm as unexplained investment. The reply of the DVO and conclusion of the AO in this regard are as under:

"5. The above objections raised by the assessee were forwarded to Departmental Valuation Officer for further comments. Reply vide letter No.2(15)/VOR/2011-12 dated 21-11-2012 is received from the Departmental Valuation Cell as follows:

"Parawise replies to the Assessee's objections are as under.

Para 1 & 4(C):- The plinth areas adopted are as per actual measurements taken at site in presence of representative of the Assessee on 10-05-2011. The actual area works out are more than the area considered by the regd. Valuer. Hence actual areas of the verious buildings as measured at site have been adopted. So no modification is required in this regard.

Para 2:- The length of compound wall for residential premises is in addition to the compound wall of the factory premises and it is inside for residential premises only and is as per actual measuremenats taken at site. Hence no revision is required in this regard. Para 3:- Regarding cost of POP ceiling and kota stone flooring. These are pan and parcel of the building and not furniture. So these are included in building cost Hence no revision is required in this regard

Para 4, 4(A). 4(B) & 5:- The Regd. Value has adopted the rate of construction without any base which is unrealistic and hence not applicable. The Rates adopted by this office are as approved by CBDT and these have been updated considering place, period and specifications of the structures which are most realistic and reasonable. Hence no revision is required in this regard.

In view of above the valuation arrived by the undersigned needs no revision and is upheld."

Thus from the reply of valuation officer, it is seen that the objections raised by the assessee towards the valuation of assets made by the Departmental valuer are as general and routine nature and quite afterthought. Hence, there is no merit as objected by assessee in written submission. During the original assessment proceedings, it was found that there are defects in the books of accounts maintained by the assessee. Thus books results were rejected. Hence, the following difference in valuation of assets is arising and the same is added in the total income of the assessee firm as unexplained investment:

<i>Sr. No.</i>	<i>Description of asset</i>	<i>Value of assets declared by the assessee</i>	<i>Value of assets as per Valuation officer</i>	<i>Difference</i>
<i>1</i>	<i>Plant and Machinery</i>	<i>Rs.2,78,45,094/-</i>	<i>Rs.2,81,80,470/-</i>	<i>Rs.03,35,376/-</i>

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2	Cost of investment in the construction of Supervisor rooms etc.	Rs. 51,27,660/-	Rs. 64,08,100/-	Rs. 12,80,440/-
3	Cost of investment in the construction of factory premises	Rs.2,81,60,403/-	Rs.3,08,87,700/-	Rs.27,27,297/-
4	Cost of investment in the construction of office premises	Rs. 36,35,500/-	Rs. 51,51,300/-	Rs. 15, 15,800/-
	Total	Rs.6,47,68,657/-	Rs.7,06,27,570/-	Rs.58,58,913/-

7. Aggrieved, the assessee went in appeal before the Id.CIT(A). During the appellate proceedings, the assessee had been issued with various notices by the Id.CIT(A) for hearing of its appeal. However, in none of the occasions, the assessee remained present before the appellate authority. The Id.CIT(A) has noticed this fact in his impugned order about various notices being issued to the assessee which was recorded in tabular form at page no.9 in the impugned order as under:

Sr. No.	Date of notice	Date fixed for hearing	Remarks
1.	26/08/2015	21/09/2015	An application for adjournment, was filed
2.	22/01/2016	08/02/2016	An application for adjournment was filed
3.	09/02/2016	25/02/2016	An application for adjournment was filed
4.	22/08/2016	14/09/2016	An application for adjournment was filed
5.	02/11/2016	25/11/2016	An application for adjournment was filed
6.	21/02/2017	27/02/2017	The accountant of assessee attended and sought adjournment. However he having no authority or plausible reasons for adjournment, no cognizance of the same was taken.

8. Before the Ld.CIT(A), in the absence of any explanation or details from the assessee, the Id.CIT(A) found merit in the action of the AO for making addition of Rs.58,58,913/-. Against this order, the assessee is now before the Tribunal.

9. We have heard the Id.DR and perused orders of the Revenue authorities. We find that the Id.AO has made the impugned addition on merit, which was subsequently challenged before the Id.CIT(A).

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However, there was no contest on behalf of the assessee before the Id.CIT(A) despite several opportunities being given to the assessee, as noted by the Id.CIT(A) in his impugned and mentioned by us above. Even in further appeal before the Tribunal, as order-sheet reveals the assessee has been given as many as five opportunities to prosecute its appeals, but all the while, the assessee remained absent and did not participate in the proceedings before us, despite service of notices. Therefore, it is clear that the assessee except coming forward to file appeals before the appropriate authorities, is not interested in following up with its matter. We also find that the authorities below have given concurrent finding of fact and on that basis the Id.CIT(A) maintained the addition made by the AO. In the absence of any representation from the assessee, and in the absence of any material on record to support the case of the assessee, the concurrent findings of the authorities below remain uncontroverted before us. The order of the Id.CIT(A) upholding the validity of the assessment framed u/s 147 of the Act and also the addition of Rs.58,58,913/- made on account of unexplained investment u/s 69 of the Act, accordingly calls for no interference. Both the issues raised in the grounds of appeal of the assessee are hereby rejected.

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

Order pronounced in the Court on 18th January, 2023 at Ahmedabad.

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Ahmedabad, dated 18/01/2023

*vk**