

**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.135/RJT/2021  
Assessment Year: 2008-09**

Kishorchandra Mohanlal Khambhayata, vs. Income Tax Officer,  
Dunex, Gondal Road, Ward – 1(1)(1), Rajkot.  
At Vavdi,  
B/h. Hotel Krishna Park,  
Rajkot.  
[AHAPK 7958 E]  
(Appellant) (Respondent)

Appellant by : Shri Samir Bhuptani, AR  
Respondent by : Shri B.D. Gupta, Sr. DR

Date of hearing : 12.01.2023  
Date of pronouncement : 18.01.2023

**ORDER**

**PER SUCHITRA KAMBLE, JUDICIAL MEMBER :**

This appeal is filed by the Assessee against the order dated 08.10.2021 passed by the CIT (A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year 2008-09.

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

- “1. Ld. CIT(A) erred in law as well as on facts in passing the appellate order u/s.250 of the Income Tax Act. 1961 dated 08.10.2021 by contending that the appellant has not furnished any written submission and consequently the appeal was liable to be dismissed, which is factually incorrect as the appellant had already furnished detailed written submission on the income tax web portal on 08.09.2021 (one month prior to the passing of the appellate order) vide acknowledgement number 469123251080921.
2. Ld. AO erred in law as well as on facts in re-opening the assessment u/s.147 of the Act and ld. CIT(A) erred in law as well as on facts in upholding the validity of the same without referring the submission of the appellant and even the material available on records.

3. *Ld. AO erred in law as well as on facts in passing the assessment order u/s.144 of the Act which was passed without considering all the material available on records and Ld. CIT(A) erred in law as well as on facts in confirming the action of Id. AO.*
4. *Ld. AO erred in law as well as on facts in making addition of Rs.17,00,000/- u/s. 68 of the Act in respect of the cash deposited in saying bank account and Id. CIT(A) erred in law as well as on facts in confirming the same without referring the submission, bank pass book, cash withdrawals, material available on records and statutory provision of section 68 of the Act.*

*All the grounds of appeal raised hereinabove are without prejudice to one another.”*

3. The assessee is an individual and was engaged in the business of manufacturing of hardware items. The assessee filed return of income on 25.06.2018 declaring total income of Rs.7,45,930/-. The case was reopened under Section 147 of the Income Tax Act, 1961 and notice under Section 148 of the Act was issued on 31.03.2015. The assessee vide letter dated 03.11.2015 requested the Assessing Officer to treat the return filed only as return filed in response to 148 notice. During the assessment proceedings, the Assessing Officer observed that the assessee made a unexplained cash credit in his savings account maintained with State Bank of Saurashtra amounting to Rs.17,00,000/- and the assessee neither filed any submission nor attended the hearing to explain the cash credit. Therefore, the Assessing Officer made addition of Rs.17,00,000/- as unexplained cash credit under Section 68 of the Act.

4. Being aggrieved by the Assessment Order, the assessee filed appeal before the CIT(A). The CIT(A) passed the ex-parte order and dismissed the appeal.

5. The Ld. AR submitted that the CIT(A) has not taken cognisance of the online submissions made by the assessee on 08.09.2021 as well as the documents filed before the CIT(A) including the decision of various High Courts, Supreme Court as well as Tribunal. Thus, the Ld. AR submitted that the assessee should have been given opportunity of hearing and, therefore, the matter may be remanded back to the file of the CIT(A) for proper adjudication of the issues on merit after giving opportunity of hearing to the assessee.

6. The 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 material available on record. It is pertinent to note that the Ld. AR during the hearing submitted the details of e-proceedings response acknowledgement wherein an online submission of the assessee was uploaded along with the various decisions of the Hon'ble High Courts, Supreme Court as well as Tribunal. All these submissions and the case laws were not at all considered by the CIT(A). Thus, in the interest of justice, it will be appropriate to remand back the issue contested by the assessee before the CIT(A) for proper adjudication of the same as per law. Needless to say the assessee be given opportunity of hearing by following the principles of natural justice.

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

Order pronounced in the open Court on this 18<sup>th</sup> day of January, 2023.

*Sd/-*  
**(ANNAPURNA GUPTA)**  
Accountant Member

*Sd/-*  
**(SUCHITRA KAMBLE)**  
Judicial Member

**Ahmedabad, the 18<sup>th</sup> day of January, 2023**

**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*