

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT. SMC BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER

ITA No. 214/Srt/2022 (Assessment Year: 2016-17)

Arham Properties, Shop No. 403, 2 nd Floor, Poddar Plaza Market, Ghod Dod Road Junction, Surat. PAN No. ABEFA 0246 M	Vs.	D.C.I.T, Central Circle-3, Surat.
Appellant/ assessee		Respondent/ revenue

Appellant represented by	Ms. Chaitali Shah, CA
Respondent represented by	Shri Vinod Kumar , (Sr -DR)
Date of hearing	09/02/2023
Date of pronouncement	09/02/2023

Order under Section 254(1) of Income Tax Act

PER: PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by assessee is directed against the order of learned Commissioner of Income Tax (Appeals)-4, Surat (in short, the Id. CIT(A) both dated 20/05/2022 for the Assessment year (AY) 2016-17.
2. At the outset of hearing, learned Authorized Representative (Ld.AR) for the assessee submits that Ld. CIT(A) dismissed the appeal of assessee in an *ex parte* order without considering the merit of the case. The Ld. CIT(A) dismissed the appeal of assessee without adjudicating the various grounds of appeal as per mandate of Section 250(6) of the Act. The Id. AR of the assessee submits that the assessee has a good case on merit and likely to succeed if the assessee is to be heard and the appeal is to be decided on merit.

The Id AR for the assessee submits that in the statement of facts the assessee has explained all the facts, the Id CIT(A) even has not considered such facts available on record. The Id. AR of the assessee prayed that matter may be restored back to the file of Ld. CIT(A) for adjudicating the issue afresh in accordance with law and she undertake on behalf of the assessee to be more vigilant in attending the hearing before Id CIT(A).

3. On the other hand, the learned Senior Departmental Representative (Id. Sr DR) for the revenue supported the order of Id. CIT(A) and submitted that the assessing officer as well as Id CIT(A) granted sufficient opportunity to the assessee. The assessee failed to availed such opportunity and now taking plea that sufficient opportunity was not given to him. The assessee has no regards to the public authorities in attending the hearing before them and now claiming that no fair or reasonable opportunity was not given to the assessee.
4. I have heard the submissions of both the parties and have gone through the orders of lower authorities carefully. I find that the Assessing Officer while passing the assessment order under section 143(3) r.w.s. 153C of the Act on 27/12/2017 made addition of Rs. 5,10,000/- on account of unaccounted payments added on protective basis. The Id. CIT(A) dismissed the appeal of assessee

by holding that in spite of several opportunities, no one attended the hearing proceedings. We find that the Id CIT(A) has not considered the basic facts available on record in the form of statement of facts file with Form -35. We further find that the Id. CIT(A) has not adjudicated the grounds of appeal raised by assessee as per mandate of Section 250(6) of the Act. Section 250(6) mandates that order of Id. CIT(A) must contain facts of the case, points of determination and decision thereon and reasons of such decision.

5. Considering the fact that Id. CIT(A) passed the ex parte order, in my view, the assessee was not offered sufficient and reasonable opportunity of hearing, therefore, the order of Id. CIT(A) is set aside and all the grounds of appeal raised by the assessee are restored back to the file of Id. CIT(A) to decide all the grounds of appeal afresh and in accordance with law. Needless to direct that before passing the order, the Id. CIT(A) shall grant reasonable opportunity of hearing to the assessee. The assessee is also directed to be more vigilant in future and not to cause further delay and seek adjournment without any valid reason and to furnish all the details as soon as possible, if so desired without any further delay, before the Id. CIT(A). In the result, the grounds of appeal raised by the

assessee are allowed for statistical purposes. In the result, the appeal of assessee is allowed for statistical purposes only.

Order pronounced in the open court on 09th February, 2023.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat, Dated: 09/02/2023

**Ranjan*

Copy to:

1. Assessee
2. Revenue
3. CIT(A)
4. CIT
5. DR
6. Guard File

By order

Sr. Private Secretary, ITAT, Surat