

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

ITA No. 232 & 233/Srt/2022 (A.Y.: 2014-15 & 2016-17) &
IT(SS)A No. 62 to 67/Srt/2022 (A.Y. 2009-10 to 2013-14 & 2015-16)
(Physical hearing)

Sandip Balvantrai Naik, D-40/41, Kishor Park Society, Ghod Dod Road, Surat-395001. E:mail naikfalguni09@gmail.com PAN No. AAVPN 0078 J	Vs.	D.C.I.T., Central Circle-4, Surat.
Appellant/ assessee		Respondent/ revenue

Assessee represented by	Shri Rasesh Shah, CA with Miss Chaitali CA
Department represented by	Shri Ashok B. Koli, CIT-DR
Date of hearing	01/03/2023
Date of pronouncement	01/03/2023

Order under Section 254(1) of Income Tax Act

PER: BENCH:

1. This set of eight appeals by the single assessee are directed against the separate orders of learned Commissioner of Income Tax (Appeals)-4, Surat (in short, the Id. CIT(A) all dated 20/05/2022 for the Assessment year (AY) 2009-10 to 2016-17 respectively. In all these appeals, the assessee has raised certain common grounds of appeal, facts in all these years are common, therefore, with the consent of parties, all these appeals were clubbed, heard together and are decided by this consolidated order to avoid the conflicting decisions. For appreciation of facts, the appeal being ITA No. 232/Srt/2022 for the A.Y. 2014-15 is

treated as a "lead case". In this appeal, the assessee has raised following grounds of appeal:

- "1. *An addition of Rs. 6,48,96,000/- u/s 69C of the Act as alleged unexplained expenditure.*
2. *An addition of R. 1,28,64,175/- u/s 69C of the Act as alleged unexplained expenditure.*
3. *An addition of Rs. 2,76,36,691/- u/s 68 of the Act as alleged unexplained cash credit.*
4. *An addition of Rs. 4,00,00,000/- u/s 69A of the Act."*

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 Commissioner of Income Tax- Departmental Representative (Id. CIT-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. We have heard the submissions of both the parties and have gone through the orders of lower authorities carefully. We find that the Assessing Officer while passing the assessment order under section 143(3) of the Act on 22/03/2016 made various additions. 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 filed 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. We find that substantial rights of the assessee is involved in the appeal.
5. Considering the fact that Id. CIT(A) passed the ex parte order, in our 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.

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

ITA No. 233/Srt/2022 & IT(SS)A No. 62 to 67/Srt/2022.

7. In all these above appeals, wherein the assessee has raised similar grounds of appeal as raised in appeal in ITA No. 232/Srt/2022 for A.Y. 2014-15, except variation of amount of disallowance/additions. Considering the fact that we have restored back the file to the Id. CIT(A) for fresh adjudication, therefore, considering the principle of consistency, all these appeal are also restored back the file to the Id. CIT(A) with similar findings.

Order pronounced in the open court on 1st March, 2023.

Sd/-
(Dr. ARJUN LAL SAINI)
ACCOUNTANT MEMBER
Surat, Dated: 01/03/2023

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

**Ranjan*

Copy to:

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

By order

Sr. Private Secretary, ITAT, Surat