

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

ITA No. 43/Srt/2023 (Assessment Year: 2014-15)
(Virtual Hearing)

Manilal Jethabhai Patel, Shop No. 03, Uma Bhavan, Near Kansarawad, Moti Bazar, Bhatar Road, Bhatar, Surat-395017. Email:carohitktaja@gmail.com PAN No. AANPP 2768 H	Vs.	I.T.O., Ward 1(3)(3), Surat-395001.
Appellant/ assessee		Respondent/ revenue

Appellant represented by	Shri Rohit Taja, CA
Respondent represented by	Shri Vinod Kumar, (Sr.DR)
Date of institution of appeal	23/01/2023
Date of hearing	14/03/2023
Date of pronouncement	14/03/2023

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 National Faceless Appeal Centre, Delhi (NFAC/Commissioner of Income Tax (Appeals) (in short, the Id. CIT(A) dated 18/01/2023 for the Assessment year (AY) 2014-15.
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 Income Tax Act, 1961 (in short, 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) just referred such facts available on record, without giving his finding on such facts. The Id AR for the assessee submits that though, the appeal was filed through his officer, however, in the meantime the assessee engaged other Chartered Accountant, namely Dharmesh Bhai Lambani, who was not well versed with the faceless system of hearing. The notices received through their email were forwarded to the assessee. The assessee after suffering adverse order has again approached his office. 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 he undertakes on behalf of the assessee to be more vigilant in attending the hearing before Id CIT(A)/NFAC.

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. The assessee does not deserve any leniency, the Id CIT(A) passed the order after considering all the facts available before him.

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. 147 of the Act on 22/11/2019 and made addition on account of unexplained investment under Section 69 and addition under Section 56(2)(vii)(b) of the Act. The Id. CIT(A) dismissed the appeal of assessee by holding that in spite of several opportunities, no one attended the hearing proceedings. I find that the Id CIT(A) has not given his finding on the basic facts available on record in the form of statement of facts file with Form -35. I 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. The Id CIT(A) in a single sentence concluded his finding that the assessing officer elaborately/ reasonably discussed the issue on both the additions. 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 14th March, 2023.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat, Dated: 14/03/2023

**Ranjan*

Copy to:

1. Assessee
2. Revenue
3. CIT
4. DR
5. Guard File

By order

Sr. Private Secretary, ITAT, Surat