

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

ITA No. 94/Srt/2023 (Assessment Year: 2014-15)
(Physical Hearing)

M/s N.A. Shaikh, Shop No. 1, Old Shopping Centre, Nr. Pratin Crossing, GIDC, Ankleshwar-393002. PAN No. AABFN 9617 R	Vs.	I.T.O., Ward 2(5), Bharuch.
Appellant/ assessee		Respondent/ revenue

Assessee represented by	Shri Deven Kapadia, CA
Respondent represented by	Shri Vinod Kumar, (Sr.DR)
Appeal instituted on	06/02/2023
Date of hearing	29/03/2023
Date of pronouncement	29/03/2023

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 21/01/2023 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 even the facts mentioned in the assessment order was not considered by Id CIT(A). The Id AR for 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).

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) of the Act on 24/12/2016 by making various additions , which includes disallowance of non-genuine creditors of Rs. 26,13,297/-, excess claim of depreciation of Rs. 2,33,252/-, disallowance under section 40(a)(ia) of Rs. 36,080/-, disallowance of expenses and addition of interest on income tax refund of Rs. 1,37,942/-. On further appeal before, Id. the Id. CIT(A) dismissed the appeal of assessee by holding that in spite of several opportunities, no one attended the hearing proceedings and the assessee is not interested in prosecuting the appeal. 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 or certain facts mentioned in the assessment order. 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 assessee is not interested in perusing the appeal. Considering the fact that Id. CIT(A) passed the ex parte order, 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)/NFAC 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 and his submissions on various grounds of appeal raised by him, as soon as possible, if so desired without any further delay. In the result, the grounds of appeal raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 29th March, 2023.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat, Dated: 29/03/2023

**Ranjan*

Copy to:

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

By order

Sr. Private Secretary, ITAT, Surat