

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

ITA No. 275/Srt/2022 (Assessment Year: 2012-13)
(Physical Hearing)

Nishar Mahmad Dola, At Vankaner, Bardoli, Surat. PAN No. ASGPD 0749 R	Vs.	I.T.O., Ward-2, Bardoli.
Appellant/ assessee		Respondent/ revenue

Assessee represented by	None
Respondent represented by	Shri Vinod Kumar, (Sr.DR)
Date of hearing	30/03/2023
Date of pronouncement	30/03/2023

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 28/07/2022 for the Assessment year (AY) 2012-13.
2. The appeal was fixed for hearing today i.e. on 30./03/2023, no one has attended the hearing on behalf of assessee nor any application for seeking further time was moved. On earlier occasions, Sh. Anup Kumar Agarwal Id AR for the assessee appeared on 29.12.2022 and the hearing was fixed on 02.02.2023. On 02.02.2023 appeared on behalf of assessee, therefore, fresh notice of hearing was issued through RPAD for 27.02.2023. Again on 27/02/2023, Shri Anup

Kumar Agarwal, Id AR appeared on behalf of assessee and the next date of hearing as 30.03.2023 was fixed on his request. However, to day neither the Id AR for the assessee appeared nor filed any adjournment application, therefore, I left no option but except to decide the appeal on the basis of material available on record and after hearing the submissions of learned Senior Departmental Representative (Id. Sr. DR) for the revenue.

3. The 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 no compliance was made. 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. The Id Sr. DR for the revenue prayed for dismissal of appeal.
4. I have considered the submission of Id. Sr. DR for the revenue and have gone through the orders of lower authorities carefully. I find that the Assessing Officer while passing the assessment order under section 144 r.w.s. 147 of the Act on 15/12/2019 made

additions under Section 69A of the Act of Rs. 8,00,269/- on account of unexplained credit in the bank account and addition of unexplained investment of Rs. 2,01,330/- in share transactions. On further appeal before, Id. the Id. CIT(A) dismissed the appeal of assessee by holding that in spite of five opportunities, no one attended the hearing proceedings and the assessee is not interested in prosecuting the appeal. 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) 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 30th March, 2023.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat, Dated: 30/03/2023

**Ranjan*

Copy to:

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

By order

Sr. Private Secretary, ITAT, Surat