

**IN THE INCOME TAX APPELLATE TRIBUNAL
“RAJKOT” BENCH, RAJKOT**

[Conducted through E-Court at Ahmedabad]

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER &
Ms. MADHUMITA ROY, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 253/Rjt/2022

(निर्धारण वर्ष / Assessment Year : 2012-13)

Shri Jitendra Vanechand Ambavi Asha Complex, 35-Karanpara, Rajkot-360001	बनाम/ Vs.	The Income Tax Officer Ward-2(1)(3), Rajkot
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : ABUPA6415G		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Mehul Ranpura, A.R.
प्रत्यर्थी की ओर से /Respondent by :	Shri B. D. Gupta., Sr.D.R.

सुनवाई की तारीख / Date of Hearing	17/04/2023
घोषणा की तारीख /Date of Pronouncement	19/04/2023

ORDER

PER Ms. MADHUMITA ROY - JM:

The instant appeal at the instance of the assessee is directed against the order dated 01.09.2022 passed by the National Faceless Appeal Centre, Delhi (hereinafter referred to as ‘NFAC’), arising out of the assessment order dated 19.12.2019 passed by the Learned ITO, Ward-2(1)(3), Rajkot under Section 143(3) r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred as to ‘the Act’) for Assessment Year 2012-13, whereby and whereunder the order of addition passed by the ITO has been upheld.

2. We have heard the rival submissions made by the respective parties and we have also perused the relevant materials available on record.

3. The brief facts leading to this case is this that the case was reopened by issuance of notice under Section 148 of the Act dated 15.02.2019 upon recording the reasons by the ITO, Ward-2(1)(3), Rajkot and upon obtaining approval of the PCIT-2, Rajkot on the basis of an enquiry which reveals the fact of carrying out transaction to the tune of Rs.71,97,505/- by the assessee with one M/s. National Shroff, Angadia on various dates during F.Y. 2011-12. The said re-assessment was culminated into an order of addition of Rs.5,75,800/- on account of unaccounted cash received by the assessee. In appeal, the same was confirmed by the Ld. CIT(A). Hence, the instant appeal before us.

4. At the very threshold of the proceeding, the Ld. Counsel appearing for the assessee submitted before us that during faceless appeal proceeding though notices were issued, the assessee has not been able to file his written statement / reply in support of the case made by the assessee. Hence, the order was passed ex parte confirming the addition made by the Ld. AO. In that view of the matter, he prays for another chance to represent the case of the assessee before the First Appellate Authority. Such prayer made by the Ld. Counsel for the assessee has not been controverted with his all fairness by the Ld. DR.

5. It is the fact that notices under Section 250 of the Act were issued on 02.06.2022, 20.07.2022 and 01.08.2022 asking the appellant to file the submission before the dates mentioned therein. The assessee filed no reply. However, in our opinion, in order to prevent the miscarriage of justice and in

adherence of the principle of natural justice, the assessee may be given another opportunity to represent his case by filing reply before the First Appellate Authority for the ends of justice. Thus, having regard to the facts and circumstances of the matter and having heard the Ld. Counsel appearing for the parties, we set aside the issue to the file of the Ld. CIT(A) with a direction upon him to allow the assessee to file his reply and pass orders considering such reply to be filed by the assessee and any evidence which the assessee may choose to file during the appellate proceeding before the First Appellate Authority. We also make it clear that the assessee would render full assistance to the Ld. CIT(A) in disposing of the appeal without any delay, in default the First Appellate Authority would be at liberty to proceed with the assessee's appeal strictly in accordance with law.

6. In the result, assessee's appeal is allowed for statistical purposes.

This Order pronounced on 19/04/2023

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER

Ahmedabad; Dated 19/04/2023

S. K. SINHA

True Copy

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER

By order/आदेश से,

Deputy/Asstt. Registrar
ITAT, Rajkot