

आयकर अपीलिय अधिकरण, राजकोट न्यायपीठ  
**IN THE INCOME TAX APPELLATE TRIBUNAL,  
RAJKOT BENCH, RAJKOT  
(Conducted through E-Court)**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER  
And  
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

आयकर अपील सं./In ITA No.49/Rjt/2020

निर्धारण वर्ष/Asstt. Year: 2010-2011

And

आयकर अपील सं./In ITA Nos.168 to 171 /Rjt/2019

निर्धारण वर्ष/Asstt. Year: 2012-2013 to 2015-16

Sureshchandra K. Padalia, Shree Harsiddhi 2-Mohannagar, Opp. New Era School, RaiyaRoad, Rajkot-360007.  <b>PAN: ADAPP2944B</b>	Vs.	I.T.O, Ward-2(3)(4), Rajkot.
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<b>(Applicant)</b>		<b>(Respondent)</b>
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Assessee by :	Shri Chetan Agarwal, A.R
Revenue by :	Shri B.D. Gupta, Sr. D.R

सुनवाई की तारीख/**Date of Hearing** : **09/05/2023**

घोषणा की तारीख /**Date of Pronouncement**: **17/05/2023**

**PER WASEEM AHMED, ACCOUNTANT MEMBER:**

These five appeals have been filed by the assessee against the order passed by the Ld.CIT(A) for assessment years 2010-11, 2012-13, 2014-15 and 2015-16 vide orders dated 24-01-2020 & 01-04-2019.

2. The assessee has raised the following grounds of appeals for the various assessment years:

**ITA No.49/Rjt/2020 for A.Y.2010-11**

1. *The ground raised in this appeal are without prejudice to one another.*
2. *The Ld.A.O grievously erred in law and on facts in making the addition of Rs.595000/- and the Ld.CIT(A) erred in law and on facts in retaining the same.*
3. *On the facts and circumstances of the case it is contended that the addition made in assessment order ought to be deleted.*
4. *The A.O and Ld.CIT(A) erred in law and on facts in ignoring the cogent evidences filed in the course of assessment proceedings and the appeal proceedings and it is contended that on the facts and circumstances of the case no addition deserves to be made.*
5. *Your appellant craves leave to add, alter, amend or withdraw any of the grounds stated here above.*

**ITA No. 168/Rjt/2019 for A.Y. 2012-13**

- "1. *The grounds raised in the appeal are without prejudice to one another.*
2. *The reopening proceedings are bad in law without jurisdiction and deserve to be quashed.*
3. *The Ld. CIT(A) 2 erred in law and facts in dismissing the appeal of the appellant and sustaining the additions of Rs. 74092/- made by the Ld. A.O. in the assessment order. On the facts and the circumstances of the case it is contended that the addition made by the A.O. deserves to be deleted.*
4. *The Ld. CIT(A) erred in this regard in sustaining the addition made by the Ld. A.O. when the same was not in accordance with law and was erroneous on facts.*
5. *It is respectfully submitted that the appellant had asked for the adjournment and subsequent date of hearing alleged to be 18/03/2019 as stated in the order under appeal was neither known to him nor intimated to him.*
6. *Without prejudice it is respectfully submitted that the additions made in the assessment order are not called for on the facts and merits of the case.*
7. *Without prejudice it is contended that the basis on which the addition is made by the A.O. and sustained by the Ld CIT(A)—the relevant material not having been furnished to the assessee in defence, the addition made deserves to be deleted.*
8. *Without prejudice it is submitted that the proper opportunity of being heard was not given to the assessee in the course of assessment proceedings and this makes the addition bad in law and not sustainable on facts.*
9. *Your appellant craves leave to add, alter, withdraw or amend any of the grounds stated here above."*

**ITA No. 169/Rjt/2019 for A.Y. 2013-14**

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1. *The grounds raised in the appeal are without prejudice to one another.*
2. *The reopening proceedings are bad in law without jurisdiction and deserve to be quashed.*
3. *The Ld. CIT (A) 2 erred in law and facts in dismissing the appeal of the appellant and sustaining the additions of Rs.2224788/- made by the Ld A.O. in the assesment order. On the facts and the circumstances of the case it is contended that the addition made by the A.O. deserves to be deleted.*
4. *The Ld. CIT (A) erred in this regard in sustaining the addition made by the Ld. A.O. when the same was not in accordance with law and was erroneous on facts.*
5. *It is respectfully submitted that the appellant had asked for the adjournment and subsequent date of hearing alleged to be 18/03/2019 as stated in the order under appeal was neither known to him nor intimated to him.*
6. *Without prejudice it is respectfully submitted that the additions made in the assesment order are not called for on the facts and merits of the case.*
7. *Without prejudice it is contended that the basis on which the addition is made by the A.O. and sustained by the Ld CIT (A)-- the relevant material not having been furnished to the assessee in defence, the addition made deserves to be deleted.*
8. *The various submission filed by the assessee were not considered by the Ld.A.O. in the course of assessment proceedings and this makes the addition bad in law.*
9. *The Ld.CIT[A] erred in law and facts in ignoring the submission filed in the course of assessment proceedings.*
10. *The various averments made the Ld.AO in the assessment order to justify the addition are incorrect and objected to.*
11. *It is respectfully submitted that the statement of the assessee as stated, recorded by the Officer of the Department was taken under pressure and tension and the assessee did not understand the context thereof. It is also pertinent to mention that the statement has been relied upon by the Department, however the material relied upon was not given to the assessee in the course of assessment proceedings for rebuttal and further defence and this makes the addition bad in law.*
12. *Without prejudice it is submitted that the proper opportunity of being heard was not given to the assessee in the course of assesment proceedings and this makes the addition bad in law and not sustainable on facts.*
13. *Your appellant craves leave to add, alter, withdraw or amend any of the grounds stated here above."*

**ITA No. 170/Rjt/2019 for A.Y. 2014-15**

1. *The grounds raised in the appeal are without prejudice to one another.*
2. *The reopening proceedings are bad in law without jurisdiction and deserve to be quashed.*

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3. *The Ld. CIT (A) 2 erred in law and facts in dismissing the appeal of the appellant and sustaining the additions of Rs.4307648/- made by the Ld A.O. in the assesment order. On the facts and the circumstances of the case it is contended that the addition made by the A.O. deserves to be deleted.*

4. *The Ld. CIT (A) erred in this regard in sustaining the addition made by the Ld. A.O. when the same was not in accordance with law and was erroneous on facts.*

5. *It is respectfully submitted that the appellant had asked for the adjournment and subsequent date of hearing alleged to be 18/03/2019 as stated in the order under appeal was neither known to him nor intimated to him.*

6. *Without prejudice it is respectfully submitted that the additions made in the assesment order are not called for on the facts and merits of the case.*

7. *Without prejudice it is contended that the basis on which the addition is made by the A.O. in the course of assessment proceedings and this makes the addition bad in law.*

8. *The Ld.CIT[A] erred in law and facts in ignoring the submission filed in the course of assessment proceedings.*

9. *It is respectfully respected that the statement of the assessee as stated, recorded by the Officer of the Department was taken under pressure and tension and the assessee did not understand the context thereof. It is also pertinent to mention that the statement has been relied upon by the Department, however the material relied upon was not given to the assessee in the course of assessment proceedings for rebuttal and further defence and this makes the addition bad in law.*

10. *The various averments made the Ld.AO in the assessment order to justify the addition are incorrect and objected to.*

11. *Without prejudice it is contended that the basis on which the addition is made by the A.O. and sustained by the Ld CIT(A)—the relevant material not having been furnished to the assessee in defence, the addition made deserves to be deleted.*

12. *Without prejudice it is submitted that the proper opportunity of being heard was not given to the assessee in the course of assessment proceedings and this makes the addition bad in law and sustainable on facts.*

13. *Your appellant craves leave to add, alter, withdraw or amend any of the grounds stated here above."*

**ITA No. 171/Rjt/2019 for A.Y 2015-16**

"1. *The grounds raised in the appeal are without prejudice to one another.*

2. *The reopening proceedings are bad in law without jurisdiction and deserve to be quashed.*

3. *The Ld. CIT (A) 2 erred in law and facts in dismissing the appeal of the appellant and sustaining the additions of Rs.440000/- made by the Ld A.O. in the assesment order. On the facts and the circumstances of the case it is contended that the addition made by the A.O. deserves to be deleted.*

4. *The Ld. CIT (A) erred in this regard in sustaining the addition made by the Ld. A.O. when the same was not in accordance with law and was erroneous on facts.*

5. *It is respectfully submitted that the appellant had asked for the adjournment and subsequent date of hearing alleged to be ..... as stated in the order under appeal was neither known to him nor intimated to him.*

6. *Without prejudice it is respectfully submitted that the additions made in the assesment order are not called for on the facts and merits of the case.*

7. *Without prejudice it is contented that the basis on which the addition is made by the A.O. and sustained by the Ld CIT(A)—the relevant material not having been furnished to the assessee in defence, the addition made deserves to be deleted.*

8. *The various submission filed by the assessee were not considered by the Ld.A.O. in the course of assessment proceedings and this makes the addition bad in law.*

9. *The Ld.CIT[A] erred in law and facts in ignoring the submission filed in the course of assessment proceedings.*

10. *It is respectfully respected that the statement of the assessee as stated, recorded by the Officer of the Department was taken under pressure and tension and the assessee did not understand the context thereof. It is also pertinent to mention that the statement has been relied upon by the Department, however the material relied upon was not given to the assessee in the course of assessment proceedings for rebuttal and further defence and this makes the addition bad in law.*

11. *The various averments made the Ld.AO in the assessment order to justify the addition are incorrect and objected to.*

12. *Without prejudice it is submitted that the proper opportunity of being heard was not given to the assessee in the course of assessment proceedings and this makes the addition bad in law and sustainable on facts.*

13. *Your appellant craves leave to add, alter, withdraw or amend any of the grounds stated here above."*

3. Since largely common facts and issues are involved for all the years, under consideration the same are being disposed of by way of this common order

4. For assessment year 2010-11, the assessee has filed the return of income for Rs.16,67,440/- which comprises mainly of salary/pension income and income from other sources, namely interest on bank fixed deposit. During the course of assessment proceeding, the Assessing officer found that in one of the saving bank account held by the assessee with co-operative Bank of Rajkot, ( which was held by the assessee with four other parties), there was an aggregate cash deposit of Rs.8,95,000/-, the source of which the assessee was unable to explain. Though the assessee claimed that amount of Rs.5,15,000/- has been given by his wife as a gift on 30-04-2010, however, the Assessing officer rejected the assessee's

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contention since the said gift was not supported by any gift deed. Accordingly, the Assessing officer made addition of Rs.5,95,000/- on account of unexplained cash deposit u/s.68 of the Act. Further, the Assessing officer observed that the assessee had received bank interest of Rs.1,04,843/- during the assessment year 2010-11, but the assessee had only declared a sum of Rs.17,061/- in his ITR. Accordingly, the Assessing officer added the differential amount of Rs.87,782/- as undisclosed income in the hand of the assessee.

5. In appeal, the Ld.CIT(A), dismissed the appeal of the assessee and confirmed the addition of Rs.5,95,000/- on the ground that the gift is not supported by the gift deed but it is in the form of affidavit dated 05-12-2018, which is nothing but a afterthought since the cash was deposited in the bank account of the assessee during the A.Y 2010-11.

6. Similarly for A.Y. 2012-13, 2013-14, 2014-15 & 2015-16, the Assessing officer made addition on account of unexplained undisclosed income not shown in the return of income on account of unexplained deposits/interest income not shown in the return of income. However, we observe that both the Assessment orders and Ld.CIT(A) orders for the various A.Ys were passed ex-parte and the assessee did not cause appearance either before the AO or Ld.CIT(A) to explain the facts of the case or to furnish any supporting documents in support of his case.

7. The counsel appearing for the assessee submitted that in all the aforesaid A.Ys the issues are largely similar and pertain to the addition made on account of unexplained cash deposit/interest income in the hands of the assessee for the impugned years under consideration. Accordingly, the counsel for the assessee requested that since in four of the five A.Ys under consideration, the assessee could not cause appearance either before the Assessing officer or Ld.CIT(A) to present his case on merit, in the interest of justice the matter may kindly be restored to the file of the Ld.CIT(A), for denovo consideration. Further, the

counsel for the assessee assured that there would not be further non-compliance on the part of the assessee to cause appearance and present his case on merits along with all supporting document. In response, the Ld.D.R has also not objected to the matter being set aside to the file of the Ld.CIT(A), for denovo consideration in the interest of justice.

8. Accordingly looking into facts of the instant case the issue is being set aside to the file of the Ld.CIT(A), for denovo consideration, in the interest of justice. Further, in case Ld.CIT(A), observes that there has been further non compliance on the part of the assessee in pursuing the appeal along with supporting documents then he may kindly proceed with passing the order on the basis of material available on record, in accordance with law.

9. Notably, we observe that for A.Ys 2012-13, 2013-14, 2014-15 & 2015-16 the appeal of the assessee is time barred by 7 days. However, looking into fact that there is a minor delay of only 7 days in filing the appeals, the delay of filing the appeals is being condoned, in the interest of justice.

10. In the combined result, the appeal for all the A.Ys under consideration are being restored to the file of the Ld.CIT(A), for denovo consideration. Accordingly, the appeal of the assessee for all the impugned years under consideration are **allowed for statistical purposes.**

**Order pronounced in the Court on 17/05/2023 at Ahmedabad.**

**Sd/-  
(SIDDHARTHA NAUTIYAL)  
JUDICIAL MEMBER**

**Sd/-  
(WASEEM AHMED)  
ACCOUNTANT MEMBER**

(True Copy)

Ahmedabad; Dated 17/05/2023  
*Mansih*