

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT

BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND

DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

ITA No. 323/SRT/2023 (AY: 2015-16)

(Virtual Hearing)

Shakti Sarjan Private Ltd., 201-202, Swagat Business Hub, Ichhapore, Surat-395007. PAN No. AAOCS 3608 M	Vs.	D.C.I.T., Circle-2(1)(1), Surat, Range-4.
Appellant/ assessee		Respondent/ revenue

Assessee represented by	Shri Ankit Rathi, CA
Department represented by	Shri Vinod Kumar, Sr. DR
Date of Institution of Appeal	08/05/2023
Date of hearing	01/08/2023
Date of pronouncement	01/08/2023

Order under Section 254(1) of Income Tax Act

PER: PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by the 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 24/03/2023 for the Assessment Year (AY) 2015-16. The assessee has raised following grounds of appeal:

- "1. That on the facts and in the circumstances of the case and in law, Id. CIT(A) erred in not passing speaking order on our appeal grounds and perfunctorily dismissing our appeal on tenuous and perverse grounds.*
- 2. On the facts and circumstances of the case as well as law on the subject, the Id. CIT(A) has erred in making addition of Rs. 20,61,800/- by treating the advance received for booring of flat as unexplained cash credit u/s 68 of the I.T. Act, 1961.*

3. *That the appellant craves leave to add, to amend, modify, rescind, supplement or late any of the grounds stated hereinabove, either before or at the time of hearing of this appeal.”*
2. Rival contentions of the learned representatives of the parties have been heard and record perused. At the outset of hearing, the learned Authorised Representative (Id. AR) of the assessee submits that the assessee could not make compliance before the Id. CIT(A) as the earlier counsel has not informed about various notices issued through ITBA portal. The assessee was not well-versed with the system of virtual hearing so he could not make proper compliance. The Id. AR of the assessee further submits that the assessee has good case on merit and is likely to succeed if the assessee is given one more opportunity to contest the case on merit. The Id AR for the assessee submits that the order of Id CIT(A) is not on merits and dismissed the appeal, simply by holding that no submissions was filed by the assessee. The order of Id CIT(A) is not on merit and mandate of section 250(6) of Income tax Act. The Id AR for the assessee submits that he undertakes on behalf of assessee to be more vigilant in attending the hearing and making due compliance of the notices of lower authorities.
3. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR) for the revenue submits that the assessee has casual in attending the hearing. The Id. CIT(A) has given more than seven

opportunities, despite giving sufficient opportunity, no compliance was made. The assessee deserve no more opportunity.

4. We have considered the submissions of both the parties and perused the record carefully. We find that the assessing officer while passing the assessment order made addition of Rs. 20,61,800/- under section 68 on account of unexplained cash credit in the assessment order dated 07/09/2021. Though, the assessee explained that credit in his bank account is for booking of flats and shops. Such explanation of assessee was not accepted by assessing officer. We find that the Id. CIT(A) passed the order in an *ex parte* proceeding. Before, us the Id. AR of the assessee explained that their consultant has not informed that and now the assessee will be more vigilant in making timely compliance before the First Appellate Authority. Considering the facts that substantial rights of the assessee is involve in the present appeal, thus, keeping in view the principles of natural justice, in our view the assessee deserve one more opportunity of hearing, therefore, the grounds of appeal raised by the assessee is restored back to the file of Id. CIT(A) to decide the appeal on merit afresh. The assessee is also directed to be more vigilant in future and to make timely compliance and file necessary evidence and not to seek adjournment without any

valid reason. Hence, grounds of appeal raised by the assessee are allowed for statistical purposes only.

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

Order announced in open court on 1st August, 2023 at the time of hearing.

Sd/-
(Dr. ARJUN LAL SAINI)
ACCOUNTANT MEMBER

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat, Dated: 01/08/2023

**Ranjan*

Copy to:

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

By order

Sr. Private Secretary, ITAT, Surat