

आयकर अपीलीय अधिकरण, सुरत न्यायपीठ, सुरत
IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
Dr ARJUN LAL SAINI, ACCOUNTANT MEMBER

आ.अ.सं./ITA No.222/SRT/2021 (AY 2015-16)

(Hybrid hearing)

Shri Kirankumar Rasiklal Sanghvi 1, Paras Society, Neminathnagar Road, Deesa- 385535 PAN : AFOPS 0131 D	Vs	Principal Commissioner of Income-tax-4, Ahmedabad, Room No.311, "C" Block, 3 rd Floor, Pratyaksh Kar Bhavan, Opp. Polytechnic, Ambawadi, Ahmedabad-380015
अपीलार्थी /Appellant		प्रत्यर्थी /Respondent
निर्धारिती की ओर से /Assessee by		Shri Rushin G Patel, Advocate
राजस्व की ओर से /Revenue by		Shri Ashish Pophare, CIT-DR
सुनवाई की तारीख/Date of hearing		21.11.2023
उद्घोषणा की तारीख/Date of pronouncement		21.11.2023

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 Principal Commissioner of Income tax-Ahmedabad-4, [for short to as 'Ld. PCIT'] passed under section 263 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') dated 03.03.2022 for assessment year (AY) 2015-16. The impugned order passed on 30.03.2020, however, in Form-36, date of communication of the order mentioned as 19.08.2020 and the appeal was filed on 22.11.2021.
2. The Ld. Authorized Representative (Ld.AR) for the assessee submits that due to bonafide belief that Surat Bench of Income Tax Appellate Tribunal (Surat Bench) has jurisdiction, the assessee filed present appeal. The basis of belief of assessee was that for AY 2015-16, the revenue filed appeal against the order of CIT(A)-4 Ahmadabad before

Surat Bench. However, later on it was noticed that assessment order which was revised by the Id PCIT, was passed by DCIT, Banaskantha Circle, Palanpor, against which the jurisdiction lies with Ahmedabad Bench of Tribunal. The Id AR for the assessee submits that, though, the assessee has filed application for transfer of this appeal from Surat bench to Ahmedabad Bench, however, to avoid the long drawn process he may be allow to withdraw this appeal with the liberty to file fresh appeal before to file appeal before proper jurisdictional Bench of Ahmedabad Tribunal. The Id AR for the assessee further prayed that the assessee may further be allow for making prayer for exclusion of time spent in Surat bench as per section 14 of Limitation Act-1963. The Id AR for the assessee also made such prayer in his written application filed through official e-mail of this bench.

3. On the other hand, Ld. CIT-DR for the Revenue submits that he has no objection if the appeal of assessee is allowed for withdrawal with the liberty to file before proper jurisdictional Bench of Tribunal. The Id CIT-DR for revenue further submits that he has no objection in allowing the liberty to the assessee as prayed for as per law.
4. We have considered the submission of both the parties and have gone through matter carefully. Considering the facts and circumstances of the case, the application filed by Ld. AR for the assessee is hereby considered and allowed with a liberty to file appeal before proper jurisdictional Tribunal. The assessee is given liberty to for filing fresh appeal on same cause of action, before the bench of Tribunal having jurisdiction, as in our view the assessee was under *bona fide* belief for

pursuing his remedy before Bench which has discovered to have no jurisdiction. The assessee is also allowed liberty to avail the benefit of section 14 of Limitation Act on filing appropriate application before the bench having jurisdiction. In the result, the application filed by the assessee for withdrawal of appeal is allowed. The appeal of assessee is dismissed as withdrawn.

5. In the result, appeal of assessee is dismissed as withdrawn.

Order pronounced in the open court on 21st November, 2023.

Sd/-

(Dr ARJUN LAL SAINI)

[लेखा सदस्य/ACCOUNTANT MEMBER]

Surat, Dated: 21/11/2022

Dkp. Out Sourcing Sr.P.S

Copy to:

1. Appellant-
2. Respondent-
3. CIT(A)-
4. CIT
5. DR
6. Guard File

Sd/-

(PAWAN SINGH)

[न्यायिक सदस्य JUDICIAL MEMBER]

By order

Sr.P.S./Assistant Registrar, ITAT, Surat

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