

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

ITA No. 509/Srt/2023 (Assessment Year 2011-12)
(Hybrid hearing)

Dilip Bhikhubhai Chauhan, Devkrupa Society, Opp. Dholakiya Garden, Katargam, Surat-395004. PAN No. AAOPC 8463 B	Vs.	I.T.O., Ward-3(2)(2), Aayakar Bhavan, Majura Gate, Surat.
Appellant/ assessee		Respondent/ revenue

Assessee represented by	Shri Bipin Jariwala, A.R.
Department represented by	Shri Vinod Kumar, Sr. DR
Appeal instituted on	24/07/2023
Date of hearing	28/11/2023
Date of pronouncement	28 /11/2023

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 National Faceless Appeal Centre, Delhi (NFAC)/learned Commissioner of Income Tax (Appeals) [in short, the Id. CIT(A)] dated 28/06/2023 for the Assessment Year (AY) 2011-12. In the appeal the assessee has challenged the additions of Rs. 15,91,000/- on account of cash deposits in bank, Rs. 5,86,178/- on account of sundry creditors and Rs. 34,164/- on account of undisclosed interest income.
2. Rival submissions of both the parties have been heard and record perused. The learned Authorised Representative (Id. AR) of the assessee submits that the Id. CIT(A) dismissed the appeal of assessee in ex parte order by passing non-speaking order. The Id. AR of the assessee submits

that though the assessee was not allowed adequate opportunity before passing the impugned order. The assessee is interested in contesting the case on merit. The assessee may be given one more opportunity to contest the case on merit. The Id AR for the assessee submits that he undertakes on behalf of assessee to be more vigilant in future in making proper responses to the notices issued by lower authorities. The Id. AR of the assessee further submits that even the Assessing Officer passed the assessment order under Section 144 of the Income Tax Act, 1961 (in short, the Act), therefore, the matter may be restored to the file of Assessing Officer with liberty to the assessee to furnish required details and submissions.

3. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR) for the revenue opposed the plea of Id. AR of the assessee and submits that the assessee is a habitual defaulter in making proper compliance and showing disregard to the various notices issued by the lower authorities. The assessee does not deserve any leniency.
4. I have considered the submissions of both the parties and perused the record carefully. I find that the Assessing Officer made addition of Rs. 15,91,000/- on account of cash deposits in bank, Rs. 5,86,178/- on account of sundry creditors and Rs. 34,164/- on account of undisclosed interest income. The Assessing Officer while passing the assessment order, recorded that the assessee has not made compliance despite of

service of various notices. Similarly, the Id. CIT(A) also confirmed the order of Assessing Officer by holding that the assessee has not made compliance. Before me, the Id. AR of the assessee vehemently urged that they are interested in contesting the case on merit, therefore, keeping in view the principles of natural justice, I am of the view that the assessee deserve one more opportunity to contest their case on merit, therefore, the grounds of appeal raised by the assessee is restored back to the file of Assessing officer to decide the issue afresh in accordance with law. Needless to direct that before passing the order the assessing officer shall grant 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 and evidences 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, this appeal of assessee is allowed for statistical purposes only.

Order announced in open court on 28th November, 2023.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat, Dated: 28/11/2023
**Ranjan*

Copy to:

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

By order

Sr. Private Secretary, ITAT, Surat