

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "C" BENCH

**Before: Shri Waseem Ahmed, Accountant Member
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No. 557/Ahd/2023
Assessment Year 2015-16**

Nitinchandra Subhashchandra Shah Anil R. Shah, (C.A.), Shreeji House, 4 th Floor, B/h. M.J. Library, Ahmedabad-380006 Gujarat PAN: AFHPS9975A (Appellant)	Vs	The Dy. Commissioner of Income Tax, Circle-3(1), Vadodara (Respondent)
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**Assessee Represented: Ms. Kinjal Shah, A.R.
Revenue Represented: Shri Ashok Kumar Suthar, Sr.D.R.**

Date of hearing : 16-01-2024
Date of pronouncement : 17-01-2024

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against the exparte appellate order dated 15.05.2023 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), arising out of the assessment order passed under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2015-16.

2. The solitary issue in this appeal is that in spite of three hearing notices given to the assessee on 06.01.2021, 11.04.2022 and 04.05.2023, the assessee neither appeared nor sought for any adjournment which has resulted in passing the above exparte order.

3. Ld. Counsel Ms. Kinjal Shah appearing for the assessee brought to our notice to Form No. 35 (statutory appeal Form before Ld. CIT(A)] wherein communication e-mail address is shown as rnasso@gmail.com. Whereas the Ld. CIT(A) sent the hearing notices to e-mail address of the assessee on the ITBA Portal namely ankit10@rnasso.in and secondary e-mail id nitinshah400@gmail.com. Thus the assessee pleaded no communication were sent to the e-mail address as mentioned in Form No. 35. Thus the order passed by the Ld. CIT(A) is liable to be set aside and assessee's prepared to argue the case on merits with supporting documents.

4. Ld. Sr. D.R. Shri Ashok Kumar Suthar appearing for the Revenue could not contravent the above submission of the assessee.

5. Taking note of the above facts on record, we also noticed in Form No. 35 that the assessee categorically stated "no" to the column "Whether notices/communication may be sent on e-mail?". Thus in our considered view, Ld. CIT(A) has not sent physical hearing notice to the assessee. Therefore in order to meet the ends of Principle of Natural Justice, we deem it fit to set aside the matter back to the file of Ld. CIT(A), NFAC with a direction to issue the

physical hearing notice to the assessee and decide the appeal on merits by giving proper opportunity to the assessee. Needless to say, the assessee should make use of this opportunity by producing all the required documents before Ld. CIT(A) for passing fresh appellate order on merits of the case.

6. In the result, the appeal filed by the Assessee is allowed for statistical purpose.

Order pronounced in the open court on 17-01-2024

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER True Copy
Ahmedabad : Dated 17/01/2024

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद