

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"SMC" BENCH, AHMEDABAD**

**BEFORE Ms. SUCHITRA R. KAMBLE, JUDICIAL MEMBER**

**ITA No. 969/Ahd/2023  
Assessment Year: 2017-18**

Lalabhat Limbabhat Sanya, Plot No. 2541, City Ring Road, Opp. Talaja Jakatnaka, Bhavnagar, Gujarat-364001 PAN : AHUPS 1013 Q	Vs	Income Tax Officer, Ward-1(4), Bhavnagar
<b>अपीलार्थी/ (Appellant)</b>		<b>प्रत्यर्थी/ (Respondent)</b>
Assessee by :		Shri Parimalsinh B. Parmar, AR
Revenue by :		Shri Purushottam Kumar, Sr DR

सुनवाई की तारीख/Date of Hearing : 10/01/2024  
घोषणा की तारीख /Date of Pronouncement : 19/01/2024

**ORDER**

This appeal filed by the assessee is directed against the order of the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as "CIT(A)" for short] dated 24.08.2023 passed under Section 250 of the Income Tax Act, 1961 [hereinafter referred to as "the Act" for short] for the Assessment Year 2017-18.

2. The Grounds of appeal are as under :-

*"1. The Ld. CIT(A) has erred in law and on the facts in confirming Ex-parte assessment order framed by the Assessing Officer u/s. 144 of the Act in spite of the fact that the Appellant had sought time to make submissions.*

*2. The Ld. CIT(A) has erred in law and on facts in passing order without appreciating that on 9 August 2023 itself i.e., on the last day of hearing, the Appellant requested for additional time up to 24.08.2023 by filing an adjournment application. However, without responding to the said adjournment application, Ld. CIT(A) passed the impugned order on 24.08.2023 itself therefore, Ld. CIT(A)'s order is bad in law as it suffers from the vice of principals of natural justice.*

*3. The Ld. CIT(A) has erred in law and on facts in invoking provisions of section 69A of the Act which is not at all applicable in the facts of the present case. He further erred in not appreciating that there is no income chargeable to tax in the case of the appellant.*

*4. The Ld. CIT(A) has erred in law and on facts in confirming an addition of agricultural income of Rs. 12,09,500/- u/s. 69A r.w.s. 115BBE of the Act.*

5. *Both the lower authorities have passed the orders without properly appreciating the facts and they further erred in grossly ignoring various submissions, explanations and information submitted by the appellant which ought to have been considered before passing the impugned order. This action of the lower authorities is in clear breach of law and Principles of Natural Justice and therefore deserves to be quashed.*
6. *The Ld. CIT(A) has erred in law and on facts of the case in confirming action of the Ld. AO in charging interest u/s. 234A/B/C/D of the Act.*
7. *The Ld. CIT(A) has erred in law and on facts of the case in confirming action of the Ld. AO in levying penalty u/s. 271AAC of the Act.*
8. *The Ld. CIT(A) has erred in law and on facts of the case in confirming action of the Ld. AO in levying penalty u/s. 272A(1)(d) of the Act.*
9. *The Ld. CIT(A) has erred in law and on facts of the case in confirming action of the ld. AO in levying penalty u/s 270A of the Act.*
10. *The ld. CIT(A) has erred in law and on facts of the case in confirming action of the Ld. AO in levying penalty u/s 271F of the Act.*
11. *The Ld. CIT(A) has erred in not considering various facts and in not appreciating the facts and law in their proper perspective."*

3. The case of the assessee was selected for scrutiny under the CASS Module for limited scrutiny due to cash deposit during the demonetization period as the assessee had deposited cash of Rs.12,09,500/- in multiple bank accounts with Central Bank of India, Bhavnagar. The assessee was required to file his reply on online portal, but the assessee did not respond. A notice u/s 143(2) of the Act dated 25.09.2018 was issued and served upon the assessee by speed post as well as through email informing that the return of income filed by the assessee on 18.07.2017 has been selected for limited scrutiny. Thereafter, notice u/s 142(1) of the Act dated 31.05.2019 with detailed questionnaire was issued and served upon the assessee. Final show-cause notice u/s 142(1) of the Act was issued to the assessee on 13.11.2019. There was no reply on behalf of the assessee, and therefore the Assessing Officer passed order u/s 144 of the Act on 21.11.2019, thereby making addition of Rs.12,09,500/- u/s 69A of the Act for unexplained income.

4. Being aggrieved by the Assessment Order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the assessee was not able to represent his case before the Assessing Officer as well as before the CIT(A) due to the fact that the assessee was not well-versed with the email notices and its compliances. Therefore, the Ld. AR requested that the matter may be remanded back to the file of the Assessing Officer for proper adjudication of the issues and the assessee be given opportunity to file the details/evidences.

6. The Ld. DR relied upon the assessment order and the order of the CIT(A). The Ld. DR further submitted that sufficient opportunities were given to the assessee, but the same was not availed by the assessee.

7. Heard both the parties and perused all the relevant material available on record. It appears that the assessee was not conversant with the notices received through email and, therefore, could not be able to respond to the same either before the Assessing Officer or before CIT(A). Therefore, in the interest of justice, it will be appropriate to remand back this matter to the file of the Assessing Officer for taking on record the evidences/details which will be provided by the assessee and, after verifying the same, the Assessing Officer may decide the same as per Income-tax Statute. Needless to say, the assessee be given opportunity of hearing by following the principles of natural justice. The assessee is directed to fully co-operate with the Assessing Officer, otherwise the Assessing Officer is at liberty to pass appropriate order as per due process of law.

8. In result, appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on this 19<sup>th</sup> day of January, 2024.

*Sd/-*

**(SUCHITRA KAMBLE)**  
Judicial Member

**Ahmedabad, the 19<sup>th</sup> day of January, 2024**

*lit* \*

Copies to: (1) *The appellant*  
(2) *The respondent*  
(3) *CIT*  
(4) *CIT(A)*  
(5) *Departmental Representative*  
(6) *Guard File*

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*By order*

*Assistant Registrar*  
*Income Tax Appellate Tribunal*  
*Ahmedabad benches, Ahmedabad*