

THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH

Before: Ms. Suchitra Kamble, Judicial Member

**ITA No. 1023/Ahd/2023
Assessment Year 2012-13**

Ramakushna Kiritbhai Tripathi, Ahmedabad PAN: AGSPT5408M (Appellant)	Vs	The Income Tax Officer, Ward-3(3)(4), Ahmedabad, (Respondent)
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**Assessee by: Shri Abhimanyu Singh Bhati, A.R.
Revenue by: Shri Aashish Rajesh Revar, Sr. D.R.**

Date of hearing : 23-01-2024
Date of pronouncement : 31-01-2024

आदेश/ORDER

This is an appeal filed against the order dated 28-09-2023 passed by National Faceless Appeal Centre (NFAC), Delhi for assessment year 2012-13.

2. The grounds of appeal are as under:-

"1. The learned Commissioner of Income-tax (Appeals) erred in law and on facts in dismissing the appeal of the Appellant.

2. *The learned Commissioner of Income-tax (Appeals) erred in law and on facts in not providing sufficient opportunity to the appellant.*

3. *The learned Commissioner of Income-tax (Appeals) erred in law and on facts in forwarding the Notices of hearing through email despite the appellant having mentioned 'No' to the communication/notice through email in Form No.35 and that too at the wrong email id.*

4. *The learned Commissioner of Income-tax (Appeals) erred in law and on facts in dismissing the appeal of the appellant in limine and without going into the merits in contravention of the provisions of section 250(6) of the Income Tax Act, 1961.*

5. *The appellant may be allowed to add, amend, alter or raise additional grounds of appeal.*

Total Tax Effect

N.A.”

3. The assessee did not file return of income for assessment year 2012-13. As per information available, the Assessing Officer observed that the assessee has financial transactions to the tune of Rs. 31,20,000/- during assessment year 2012-13 and therefore the case of the assessee was reopened. The assessment was reopened in terms of section 147 of the Act by invoking provisions of section 148 of the Act. Consequently, the notice u/s. 148 of the Act was issued and served upon the assessee. Despite issuing several notices, the assessee has not filed any reply/details and therefore the Assessing Officer made addition of Rs. 31,20,000/- in respect of the amount

credited in the Dena Bank and treated the same as unexplained credit/deposit in bank account.

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. A.R. submitted that the present appeal is filed belatedly for 15 days for which the assessee has filed the condonation of delay application explaining therein that the professional earlier was handling the matter has not filed the appeal within the stipulated time of 60 days. Thus, therefore, the delay was for genuine reason and was not deliberate. The ld. D.R. opposed the condonation of delay. The assessee has explained the delay in his filing the present appeal and it appears that the delay is not on account of the assessee's fault but due to the non-follow up of the assessee's profession and therefore this cannot be termed as the delay is deliberate on the part of the assessee. Thus, the delay of 15 days is condoned.

6. The ld. A.R. submitted before the Assessing Officer as well as the CIT(A) the assessee could not represent his case properly as during assessment proceedings, the assessee has encountered difficulty as the assessee's accountant left the job

and could not intimate the assessee. The ld. A.R. further submitted that before the CIT(A) also, the assessee could not represent his case properly as the assessee was not aware about the procedural part and the notices were not forwarded to the assessee by the professional and the matter remained un-contested. Therefore, the ld. A.R. submitted that the matter may be remanded back to the file of Assessing Officer for proper adjudication of the issues and the assessee be given opportunity of hearing as per due process of law.

7. The ld. D.R. relied upon the assessment order and the order of the CIT(A). The ld. D.R. further submitted that the assessee should have taken precaution to appear either before the Assessing Officer or CIT(A) and should have represented the case when the time was sufficiently given to the assessee.

8. Heard both the parties and perused all the relevant materials available on record. In the present assessee's peculiar case wherein the assessee's accountant who was looking after the assessee's case left the job without intimating the notices as well as the assessee not being able to know the intricacies of Income Tax Act and its compliances could not represent his case either before the Assessing Officer or before the CIT(A). The assessee was not able to file the evidences/details and therefore the matter may be remanded

back to the file of Assessing Officer for proper adjudication after taking the evidences/details and decide the issue on merit. Needless to say, the assessee be given opportunity of hearing by following principles of natural justice.

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

Order pronounced in the open court on 31-01-2024

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Ahmedabad : Dated 31/01/2024

आदेश की प्रतिलिपि अग्रहित / 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