

THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "A" BENCH

**Before: Ms. Suchitra Kamble, Judicial Member
And Shri Waseem Ahmed, Accountant Member**

**ITA No. 848/Ahd/2023
Assessment Year 2012-13**

Mehta Manilal Panachand & Sons, 31 Hathikhana, Market Yard Fatehpura, Vadodara PAN: AACFM8062A (Appellant)	Vs	The ITO, Ward-3(1)(4), Vadodara (Respondent)
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**Assessee by: Shri S.N. Soparkar, Sr. A.R. &
Shri Parin Shah, A.R.**

Revenue by: Shri Santosh Kumar, Sr. D.R.

Date of hearing : 31-01-2024

Date of pronouncement : 07-02-2024

आदेश/ORDER

PER : SUCHITRA KAMBLE, JUDICIAL MEMBER:-

This is an appeal filed against the order dated 03-10-2023 passed by National Faceless Appeal Centre (NFAC), Delhi for assessment year 2012-13.

2. The grounds of appeal are as under:-

- “1. Ld. CIT(A) (NFAC) erred in law and on facts in dismissing the appeal filed by the appellant since no documentary evidence in support of grounds of appeal were filed before the appellate authority.
2. Ld. CIT(A) (NFAC) erred in law and on facts in confirming huge addition of Rs. 1,18,47,810/- made by AO on account of unexplained cash credit.
3. Ld. CIT(A) (NBAC) erred in law and on facts in confirming action of AO disallowing Rs. 3,83,893/- expenses from Rs. 13,75,735/- incurred for the purpose of the business by the appellant.
4. Ld. CIT (A) (NBAC) erred in law and on facts in confirming disallowance made by AO of Rs. 3,02,837/- expended on putting up hoardings as well printing of brochures for marketing of the project.
5. Ld. CIT (A) (NBAC) erred in law and on facts dismissing the appeal without considering documentary evidences such as confirmation of creditors and details of expenses incurred with supporting documents with appeal memo.
6. Ld. CIT (A) (NBAC) erred in law and on facts in confirming disallowance made by AO of Rs. 1,28,910/- incurred at the site of the project.
7. Levy of interest u/s 234A/ 234B, 234C & 234D of the Act is unjustified.
8. Initiation of penalty proceedings u/s 271(l)(c) of the Act is unjustified.”

3. The assessee firm is engaged in the trading in various types of grains and other food items. The assessee firm filed return of income on 27-09-2021 declaring total income of Rs. 4,56,540/-. The assessment order was passed u/s. 144. The Authorized Representative or the assessee has not given any response to the statutory notices within the stipulated time. The Assessing Officer made addition on account of unsecured loan u/s. 68 towards unexplained cash credit amounting to Rs. 1,18,47,810/- and addition on account of expenses claimed by the assessee for which the assessee did not produce any bills and vouchers amounting to Rs. 3,83,893/-.

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 Id. A.R. submitted that due to the non-representation by the Authorized Representative before the Assessing Officer, the assessee was not aware about assessment proceedings and the subsequent assessment order passed by the Assessing Officer u/s. 143(3) r.w.s. 144 of the Act. Subsequently, the assessee could not attend the proceedings before the CIT(A)/NFAC as the notices were issued during Corona period and subsequently also due to lack of professional representation the assessee could not attend the proceedings as the Id. Authorized Representative submitted that the CIT(A) has passed ex-parte order for non-prosecution and not decided the case on merit. Therefore, the Id. A.R. prayed that the matter may be remanded back to the file of Assessing Officer for proper adjudication of the issues after giving ample opportunity of hearing to the assessee as per due process of law.

6. The Id. Departmental Representative relied upon the assessment order and the order of the CIT(A).

7. We have heard both the parties and perused all the relevant materials available on record. It is pertinent to note that the Authorized Representative of the assessee has not represented the assessee's case before the Assessing Officer as well as before the CIT(A) and because of this the assessee could not attend and present his documentary evidences in respect of the statutory show cause notice to prove his claim before the Assessing

Officer. Before the NFAC due to the Corona period and lack of professional guidance the assessee could not attend the appellate proceedings. This reason appears to be genuine and therefore the matter is remanded back to the file of Assessing Officer and the Assessing Officer should take on record the evidences filed by the assessee before us and the same are admitted. After verifying the said additional evidences, the Assessing Officer should verify the same and adjudicate the issues as per due process of law and Income Tax Statute. Needless to say, the assessee be given opportunity of hearing by following principles of natural justice.

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

Order pronounced in the open court on 07-02-2024

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER
Ahmedabad : Dated 07/02/2024

Sd/-
(SUCHITRA KAMBLE)
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