

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AHMEDABAD**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER &
Ms. MADHUMITA ROY, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 1065/Ahd/2023

(निर्धारण वर्ष / Assessment Year : 2011-12)

Divyeshkumar L. Kachhiya Bhat Pipli, Umreth, Anand Gujarat, 388220	बनाम/ Vs.	The Income Tax Officer Ward-1, Anand
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : BQFPK5153G		
(Appellant)	..	(Respondent)

अपीलार्थी ओर से /Appellant by :	Shri M. K. Patel, A.R.
प्रत्यर्थी की ओर से/Respondent by :	Shri V. K. Mangla, Sr. DR

Date of Hearing	12/02/2024
Date of Pronouncement	14/02/2024

ORDER

PER Ms. MADHUMITA ROY - JM:

The instant appeal filed at the instance of the assessee is directed against the order dated 16.10.2023 passed by the National Faceless Appeal Centre (NFAC), Delhi, arising out of the order dated 28.11.2018 passed by the ITO, Ward-3, Anand, under Section 147 r.w.s. 144 of the Income Tax Act, 1961, (hereinafter referred to as ‘the Act’) for Assessment Year 2011-12.

2. The appeal is time barred by 3 days. Considering the merit of the matter, we condone the delay in preferring such appeal before us.

3. The appellant before us has challenged the order passed by the NFAC dated 16.10.2023 arising out of the order dated 20.11.2018 passed under Section 147 r.w.s. 144 of the Act passed by the Ld. AO for A.Y. 2011-12. In fact, the order impugned is admittedly an ex parte one. Upon perusal of the orders, it appears that the Ld. CIT(A) has not finalized the matter by a reasoned order justifying the order passed by the Ld. AO while upholding the same. The appellant had also not been heard by the Revenue authorities as it is evident on record and in that view of the matter, we find further opportunity of being heard to the appellant be given. Thus, in order to prevent the miscarriage of justice, we set aside the issue to the file of the Ld. CIT(A) for considering the issue afresh on merit and to pass a reasoned order upon granting an opportunity of being heard to the assessee and considering the evidence on record or any other evidence which the assessee may choose to file at the time of hearing of the matter. The Ld. CIT(A) is directed to pass order strictly in accordance with law.

4. In the result, the appeal preferred by the assessee is allowed for statistical purposes.

This Order pronounced on 14/02/2024

Sd/-

(WASEEM AHMED)

ACCOUNTANT MEMBER

Ahmedabad; Dated 14/02/2024

S. K. SINHA

True Copy

Sd/-

(MADHUMITA ROY)

JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रहित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT

4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad