

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH

**Before: Smt. Annapurna Gupta, Accountant Member
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No. 1070/Ahd/2023
Assessment Year 2012-13**

Samir Vadilal Shah 81-84, Sumel Business Park-II B/H, Vanijya Bhavan, Kankaria, Ahmedabad Gujarat 380022 PAN: ACUPS2052G (Appellant)	Vs	The Commissioner of Income Tax, Ahmedabad (Respondent)
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**Assessee Represented: Shri Dipak Thakkar, C.A.
Revenue Represented: Shri Ketan Gajjar, Sr.D.R.**

Date of hearing : 27-02-2024
Date of pronouncement : 06-03-2024

आदेश/ORDER

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

This appeal is filed by the assessee as against the exparte appellate order dated 20-10-2023 passed by Commissioner of Income Tax [Appeals]-11, Ahmedabad arising out of the reassessment order passed under section 143(3) r.w.s. 147 of the Income Tax Act, 1961 [herein after referred as the Act] relating to the Assessment Year 2012-13.

2. The Ld. CIT(A) held that four hearing opportunities were given on 10.12.2019, 18.09.2023, 20.09.2023 and 04.10.2023, as there was no response from the assessee, he dismissed the appeal filed by the assessee.

3. Ld. Counsel for the assessee submitted before us the assessee had sought for adjournment on 10.12.2019 for preparation of Written Submissions and Paper Book. On 29.01.2020, the assessee filed a detailed Written Submission also mentioning that the very same Ld. CIT(A), in his order dated 08.08.2019 in the case of Ankur Vadilal Shah (who is the real brother of the assessee) held in favour of the assessee and therefore requested to delete the addition made by the Assessing Officer. The assessee also placed on record, the adjournment letter and the written submissions filed by the assessee at Page Nos. 61 to 69 of the Paper Book. Thus the assessee pleaded that the Ld. CIT(A) is not correct in stating that the assessee has not furnished any information before the Appellate Authority and requested to set aside the exparte order.

4. The Ld. Sr. D.R. appearing for the Revenue has no serious objection in setting aside the matter back to the file of Ld. CIT(A).

5. We have given our thoughtful consideration and perused the materials available on record including the Paper Book filed by the assessee. This Appellate order is passed by Ld. CIT(A)-11, Ahmedabad (not under the Faceless Appeals Scheme) whereas only on physical hearing of the appeal. However he has failed to consider the written submissions filed by the assessee as well as his own order dated 08.08.2019 passed in the case of Ankur

Vadilal Shah (who is the real brother of the assessee herein). Therefore to meet the ends of justice, we deem it fit to set aside the matter back to the file of Ld. CIT(A) with a direction to hear the appeal on merits by giving adequate opportunity to the assessee. Needless to say, the assessee should cooperate the hearing opportunity given by Ld. CIT(A) for passing a speaking order.

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

Order pronounced in the open court on 06 -03-2024

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER True Copy
Ahmedabad : Dated 06/03/2024

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