

IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, AHMEDABAD

BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER &
MS. MADHUMITA ROY, JUDICIAL MEMBER

आयकर अपील सं./I.T.A. No. 936/Ahd/2023
(निर्धारण वर्ष / Assessment Years : 2017-18)

Tajdin Hasanali Halani 42/43, Sabina Park, Bhalej Road, Near Jakat Naka, Anand, Gujarat - 388001	बनाम/ Vs.	The Income Tax Officer Ward -5, Anand
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AANPH1966P		
(Appellant)	..	(Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Vivek Chavda, AR
प्रत्यर्थी की ओर से/Respondent by :	Shri J L Bhatia, Sr. DR

Date of Hearing	29/02/2024
Date of Pronouncement	08/03/2024

ORDER

PER Ms. MADHUMITA ROY - JM:

The instant appeal filed at the instance of the assessee is directed against the order dated 25.09.2023 passed by the National Faceless Appeal Centre (NFAC), Delhi, arising out of the order dated 27.12.2019 passed by the ITO, Ward-5, Anand, under Section 143(3) of the Act for Assessment Year 2017-18.

2. At the time of hearing of the instant appeal, the Ld. Counsel appearing for the assessee submitted before us that the order passed by Ld. CIT(A) is an ex parte one; out of four notices two were issued to the assessee during Covid period and the other two during July to September, 2023 where the assessee was unable to appear before the First Appellate Authority but requested for adjournment which was not taken into consideration and the issue was finalized against the assessee. The Ld. Counsel with his all fairness also submitted before us that even before the Ld. AO, the assessee could not appear because of this particular reason of service of notice was made through e-mail which belongs to the earlier counsel and neither the assessee nor the present Counsel's. As the matter is ultimately finalized ex parte, the assessee prays for another opportunity of being heard to represent his case effectively before the authorities below. Such contention made by the Ld. AR has not objected by the Ld. DR.

3. Having heard the Ld. Counsel appearing for the parties and having regard to the facts and circumstances of the case, we, taking into consideration the impugned ex parte order, find it fit and proper to give a further opportunity of being heard to the assessee in order to prevent the miscarriage of justice. We, therefore, set aside the issue to file of the Ld.CIT(A) for adjudicating the same afresh upon 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 orders strictly in accordance with law.

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

This Order pronounced on 08/03/2024

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER
Ahmedabad; Dated 08/03/2024
S. K. SINHA

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER

True Copy

आदेश की प्रतिलिपि अग्रेषित/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