

**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. 895/Ahd/2023
(निर्धारण वर्ष / Assessment Years : 2017-18)

Mahendra Ramlabhaya Varma Shop No.9, Ground Floor, Amrapali Axiom-2, Nr. Iscon Platinum, Bopal Cross Road, Ambali, Ahmedabad - 380058	बनाम/ Vs.	The Income Tax Officer Ward 5(2)(5), Ahmedabad
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAKPV9144N		
(Appellant)	..	(Respondent)

अपीलार्थी ओर से /Appellant by :	Shri S. N. Divatia & Shri Samir Vora, A.Rs.
प्रत्यर्थी की ओर से /Respondent by :	Shri Nitin Vishnu Kulkarni, Sr. DR

Date of Hearing	20/03/2024
Date of Pronouncement	22/03/2024

ORDER

PER Ms. MADHUMITA ROY - JM:

The instant appeal filed by the assessee is directed against the order dated 14.09.2023 passed by the National Faceless Appeal Centre (NFAC), Delhi, arising out of the order dated 07.12.2019 passed by the ITO, Ward 5(2)(5), Ahmedabad under Section

143(3) of the Income Tax Act, 1961 (hereinafter referred as to 'the Act') for Assessment Year 2017-18.

2. At the time of hearing of the instant appeal, the Ld. Counsel appearing for the appellant submitted before us that a single notice was issued during Covid period by the Ld. CIT(A) on 01.03.2021 fixing the date on 08.03.2021, which could not be complied with by the appellant. Subsequently, notice dated 05.09.2023 fixing the date of hearing on 12.09.2023 was issued by the Ld. CIT(A), which was sent through mail at varma.wnr@gmail.com which according to the appellant since not frequently used and only used by staff of appellant, somehow the appellant missed the date. Further that, there were only two working days during this particular period, 7th being closed holiday on account of Janmashthami and 9th & 10th closed as Saturday and Sunday where most of the staffs of the appellant were on leave. The matter, therefore, remained unrepresented by the appellant since the date was mentioned for the reason as explained hereinabove. Thus, he prays for further opportunity of being heard to represent this case before the Ld. CIT(A) on merit. Such prayer made by the Ld. Counsel for the appellant has not been controverted 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 further opportunity of being heard to the

appellant 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. We also make it clear that in the event the appellant fails to co-operate with the Ld. CIT(A), the authority will be at liberty 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 22/03/2024

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER
Ahmedabad; Dated 22/03/2024
S. K. SINHA

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER

True Copy

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