

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ  
**IN THE INCOME TAX APPELLATE TRIBUNAL,  
" SMC" BENCH, AHMEDABAD**

**BEFORE Ms SUCHITRA KAMBLE, JUDICIAL MEMBER  
And  
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.251/AHD/2024

निर्धारण वर्ष/Asstt. Year: 2017-2018

Satishkumar Amrutlal Patel, 3/183 Patel ni Line, Varvada, Unjha-384215.  <b>PAN: BKDPP7220B</b>	Vs.	Income Tax Officer, Ward-4, Patan.
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(Applicant)		(Respondent)
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Assessee by :	Shri Rushin Patel, AR
Revenue by :	Shri C.S Sharma, Sr.DR

सुनवाई की तारीख/**Date of Hearing** : **15/04/2024**

घोषणा की तारीख /**Date of Pronouncement**: **19/04/2024**

**आदेश/ORDER**

**PER SUCHITRA KAMBLE, JUDICIAL MEMBER:**

The captioned appeal has been filed at the instance of the Assessee against the order of the Learned Commissioner of Income Tax(Appeals), Gandhinagar, arising in the matter of assessment order passed under s. 143(3) of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2017-2018.

2. The assessee has raised the following grounds of appeal:

*1. The Ld.CIT(A), has erred in law and on facts of the case, in dismissing the appeal of the assessee, for alleged non-prosecution of the appeal by the assessee and within hearing the assessee.*

*2. The appellant craves leave to add, amend or alter the grounds of appeal at the time of hearing, if need arise.*

3. The assessee filed his return of income declaring total income at Rs.3,29,330/- on 14/08/2017. The case was selected for scrutiny and notice u/s.143(2) of the Act, with questionnaire were issued on various dates which included notice issued u/s.142(1) r.w.s 129 of the Act, dated 22/08/2019. The AO observed that the assessee derived income from house property, profit and gains from business or profession and income from other sources. The assessee submitted details on 24/10/2019. The AO issued show cause notice dated 10/12/2019, to submit certain details which the assessee submitted on 16/12/2019. The AO observed that the unsecured loan in the name of 8 parties was not explained by the assessee and hence treated the same as unexplained and added the same to return of income as per the provision of section 68 of the Act. Thus, the AO made addition of Rs.4,97,005/- as addition on account of unexplained addition in capital account as per the provision section 68 of the Act, and addition of Rs.11,20,000/- as on unexplained unsecured loan u/s.68 of the Act.

4. Being aggrieved by the order of the AO the assessee filed appeal before the Ld.CIT(A). The Ld.CIT(A), dismissed the appeal of the assessee.

5. The Ld.AR submitted that the Ld.CIT(A), passed ex-parte order without giving opportunity of hearing to the assessee. Therefore, the matter may remand back to the file of Ld.CIT(A), for adjudication of issues on merit.

6. The Ld.DR relied upon the assessment order and the order of the Ld.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 Ld.CIT(A), has mentioned in the order that the notices were issued through emails but no response was received from the assessee. The Ld.AR contended before us that as the assessee was not aware of the technicalities of responding emails issued by the Department/Ld.CIT(A), the assessee could not attend the hearing before the Ld.CIT(A). Therefore, in the interest of justice it will be appropriate to remand back this matter to the file of Ld.CIT(A), for proper adjudication of the issues on merit after taking cognizance of the evidences to decide the matter on merit as per the provision Income-tax statute. Needless, to say that assessee be given opportunity of hearing by following the Principle of Natural Justice. Hence, the ground of appeal of the assessee is allowed for the statistical purposes.

8. In the result, the appeal filed by the assessee is allowed for the statistical purposes.

**Order pronounced in the Court on 19/04/2024 at Ahmedabad.**

**Sd/-**  
**(NARENDRA PRASAD SINHA)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

Ahmedabad; Dated  
*Manish*

**(True Copy)**  
19/04/2024