

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

BEFORE Ms. SUCHITRA RAGHUNATH KAMBLE, JUDICIAL MEMBER

आयकर अपील सं./I.T.A. No. 33/Ahd/2024
(निर्धारण वर्ष / Assessment Year : 2013-14)

Shantichand Balchand Borar N-101, Orchid Whitefield, Near Makarba Railway Crossing, Makarba, Gujarat 380051	बनाम/ Vs.	The Income Tax Officer Ward 5(3)(2), Vejalpur, Ahmedabad
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AEHPB5346P		
(Appellant)	..	(Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Prakash D. Shah & Shri Saiyam V. Shah, A.Rs.
प्रत्यर्थी की ओर से /Respondent by :	Shri Ketan Gajjar, Sr. DR

Date of Hearing	01/04/2024
Date of Pronouncement	24/04/2024

ORDER

The appeal is filed by the assessee against the order dated 21.08.2023 passed by the National Faceless Appeal Centre (NFAC), Delhi, for Assessment Year 2013-14.

2. The grounds of appeal filed by the assessee are as under:

- “1. The learned National Faceless Appeal Centre has erred in law and facts by not quashing the reassessment proceeding and annulling the assessment order passed as the same is without jurisdiction and bad in law.
2. The learned National Faceless Appeal Centre has erred in law and facts by confirming the disallowance of Rs.16,83,123/- of indexed value of improvement cost and transfer expense and therefore the learned AO be directed to allow the said expense while computing total income.

3. *That the appellant craves liberty to add, amend and alter any ground of appeal before the final hearing.”*

3. The assessee filed return of income for A.Y. 2013-14 on 27.09.2013 declaring total income of Rs.21,57,210/-. As per the information available with the Income Tax Department, the assessee claimed bogus deduction of Rs.16,83,123/- by computing long term capital gain on sale of immovable property. The AO observed that the assessee invested amount of Rs.96 Lakhs in time deposits during F.Y. 2012-13 source of which is not known. The case was reopened under Section 147 of the Act and reasons were provided to the assessee. Statutory notices were issued to the assessee and the same was served. The assessee failed to respond to the notices and, therefore, the AO passed assessment order under Section 144 of the Act and made addition of Rs. 16,83,123/- thereby disallowing the cost of improvement and brokerage expenses on account of cost on transport.

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

5. The Id. AR submitted that the assessee has not received the notices either before the AO as well as before the CIT(A). Therefore, the Id. AR submitted that the matter may be remanded back to the file of the Id. AO for proper adjudication and allow the assessee to file the requisite evidences. The Id. AR further submitted that there is a delay of 60 days in filing the present

appeal. The same should be condoned as the assessee is above 80 years and was not aware about the Faceless Scheme.

6. The Id. DR relied upon the assessment order and the order of the Id. CIT(A).

7. Heard both the parties and perused the relevant materials available on record. The delay appears to be genuine as stated in the affidavit of the assessee and, therefore, the delay is condoned. As regards the assessment order and the order of the Id. CIT(A), both the orders are silent on the service of statutory notices served upon the assessee. The AO has not given sufficient opportunity to the assessee and, therefore, it will be appropriate to remand back this matter to the file of the Id. AO thereby taking on record the details/evidences which will be filed by the assessee before the AO and thereafter after verifying the same, adjudicate the issues as per Income Tax Statute. Needless to say, the assessee be given opportunity of hearing by following principles of natural justice.

8. In the result, appeal of the assessee is partly allowed for statistical purposes.

This Order pronounced on 24/04/2024

Sd/-
(SUCHITRA RAGHUNATH KAMBLE)
JUDICIAL MEMBER

Ahmedabad; Dated 24/04/2024

S. K. SINHA

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