

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

BEFORE Ms. SUCHITRA RAGHUNATH KAMBLE, JUDICIAL MEMBER

आयकर अपील सं./I.T.A. No. 1013/Ahd/2023
(निर्धारण वर्ष / Assessment Year: 2018-19)

Maulikaben Anantkumar Shah A 104, Sharan 2, Near Dev Hospital, Vasna, Ahmedabad, Gujarat 380007	बनाम/ Vs.	The Income Tax Officer Ward 6(1)(1), Ahmedabad
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : BTOPS0942R		
(Appellant)	..	(Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Hem Chhajed, A.R.
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 06.10.2023 passed by the National Faceless Appeal Centre (NFAC), Delhi, for Assessment Year 2018-19.

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

“1. The order passed by the Ld. CIT(A) is against law, equity & justice.

2. *The Ld. CIT(A) has erred in law and on facts in upholding addition made by the Ld. AO for agriculture income of Rs.35,95,588/- as unexplained receipt.*
3. *The appellant craves liberty to add, amend and alter or modify all or any grounds of appeal before final appeal.”*

3. The assessee derives income from agriculture and filed original return of income for A.Y. 2018-19 on 31.08.2018 declaring loss of Rs.95,900/- and agricultural income of Rs.62,83,468/-. Thereafter, the assessee filed revised return on 31.03.2019 declaring total income of Rs.95,900/- and agriculture income of Rs.70,78,468/-. The case was selected for scrutiny. The AO observed that the assessee has shown agricultural income of Rs.70,78,468/- and claimed exemption but no documentary evidences in support of agriculture income was submitted. The assessee filed submissions before the AO and after taking into account the same the AO passed assessment order thereby rejecting the claim of assessee and added the income of Rs.35,95,588/- as ‘income from other sources’.

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 CIT(A) has not taken cognizance of the evidences and has not given the opportunity to the assessee to file any evidence and pass ex parte order without following principles of natural justice. The Ld. AR is submitting

that the additional evidences filed before the Tribunal be taken on record and be admitted and the matter may be remanded back to the file of the Id. CIT(A) for proper adjudication of the appeal on merit.

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. It is pertinent to note that the CIT(A) has passed ex parte order without deciding the case on merit. The CIT(A) has also not stated in the order whether the notices were properly served to the assessee or not. From the perusal of the application of additional evidence and the documents submitted before us, it appears that these documents are to be taken on record for deciding the issues on merit. Hence, the additional evidences are admitted and the same may be taken into account by the Id.CIT(A), therefore, the matter is remanded back to the file of the CIT(A) for proper adjudication of the issues contested by the assessee therein after taking cognizance of the additional evidences filed before the Tribunal and verify the same calling upon the remand report from the AO. The CIT(A) should decide the matter as per the Income Tax statute. Needless to say, the assessee be given opportunity of hearing by following the principles of natural justice. There is a delay of 2 days for which

the assessee has given a reasonable cause. Hence, the delay is condoned.

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 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