

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

BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER

**ITA No.329/Ahd/2024
Assessment Year: 2011-12**

Jagrutiben Ambalal Patel, A/48, New York Darshan Flats, Opp. Inductothrm Factory, Bopal, Ahmedabad – 380 058. [PAN – BLUPP 4845 A] (Appellant)	Vs.	The Income Tax Officer, Ward – 3(2)(7), Ahmedabad. (Respondent)
Assessee by	Shri Mehul Thakkar, AR	
Revenue by	Shri Urjit B. Shah, Sr. DR	
Date of Hearing	24.04.2024	
Date of Pronouncement	26.04.2024	

ORDER

This appeal is filed by the assessee against order dated 02.06.2022 passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year 2011-12.

2. The assessee has raised the following ground of appeal :-

“1. The CIT(A) has erred in law as well as on facts in confirming the addition of Rs.10,00,500/- towards cash deposited in the bank account.”

3. The assessee has not filed return of income under Section 139(1) of the Income Tax Act, 1961. The case was selected for reopening under Section 148 of the Act for the reason to believe that the assessee had deposited cash of Rs.10,00,500/- during the Assessment Year 2011-12 which was not disclosed in her income. Notice under Section 148 of the Act was issued but the assessee neither filed return nor filed any reply. The Assessment Order was passed under Section 144 read with Section 147 of the Act thereby making addition of Rs.10,00,500/- as cash deposits.

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. There is a delay of 570 days in filing the present appeal for which the assessee has filed detailed affidavit thereby stating that the Tax Consultant-cum-Accountant who was working for the assessee has neither provided the copy of the appeal filed as well as the relevant documents including the login on ITBA Portal. The assessee has in fact received the papers on 22nd September 2023 and due to the required procedure and finding new professional Consultant the assessee filed the appeal belatedly. In fact, the assessee has issued legal notice to the Tax Consultant dated 05.02.2024. The explanation given by the assessee for the delay is plausible and hence the delay is condoned.

6. The Ld. AR submitted that the assessee has filed additional ground thereby challenging the proceedings under Section 147 of the Act itself. The Ld. AR further submitted that since the earlier Tax Consultant has not followed the appeal before the CIT(A), the CIT(A) has passed ex-parte order without giving proper opportunity to the assessee to present his case on the basis of the evidences. Therefore, the assessee has filed application for additional evidence before the Tribunal. The Ld. AR submitted that the additional ground as well as the additional evidences be admitted and the matter may be remitted back to the file of the CIT(A) for proper adjudication of the issues on legal aspect and Section 147 as well as on merits of the case.

7. The Ld. DR relied upon the Assessment Order and the order of the CIT(A).

8. Heard both the parties and perused all the relevant material available on record. Due to the negligence the earlier Tax Consultant, the assessee cannot be held responsible in the present case for not filing the evidences as well as legal issues before the CIT(A) and contesting the matter in consonance with evidences. Thus, the additional evidences filed by the assessee before the Tribunal is admitted. Since the CIT(A) has not given opportunity of hearing to the assessee, it will be appropriate to remand back the matter to the file of the CIT(A) thereby allowing the assessee to take the legal ground which is filed before the Tribunal

as additional ground and take cognisance of the same after verifying the assessment records and decide the same as per Income Tax Statute. The CIT(A) is also directed to take cognisance of the evidences filed before the Tribunal while deciding the matter if the merit has to be looked into. Needless to say, the assessee be given opportunity of hearing by following the principles of natural justice.

9. In the result, appeal filed by the assessee is partly allowed for statistical purpose.

Order pronounced in the open Court on this 26th April, 2024.

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 26th April, 2024

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Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad