

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ, 'ए', अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
" A " BENCH, AHMEDABAD

BEFORE SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER
AND
SHRI MAKARAND V. MAHADEOKAR, ACCOUNTANT MEMBER

ITA No. 147/Ahd/2024
Assessment Year : 2018-19

The Janta Co-op. Bank Ltd. Nawa Bazar Nr. Rani Masjid, Godhra Godhra, Panchamahar - 390 001 Gujarat	Vs	The DCIT Circle Anand Anand
PAN: AAAAT 2398 D		

अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		Ms. Amrin Pathan, AR
Revenue by :		Ms. Saumya Pandey Jain, Sr.DR

सुनवाई की तारीख/Date of Hearing : 22/05/2024
घोषणा की तारीख /Date of Pronouncement: 28/05/2024

आदेश/ORDER

PER MAKARAND V. MAHADEOKAR, ACCOUNTANT MEMBER

This appeal by the assessee arises from the *ex-parte* order dated 29.11.2023 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (NFAC) [hereinafter referred to as "the CIT(A)"], whereby the CIT(A) upheld the assessment order of the Assessing Officer (hereinafter referred to as "the AO") for the Assessment Year (AY) 2018-19.

2. Assessee has raised the following Grounds of the appeal:

1. *The learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi ["CIT(A)"] erred in fact and in law in passing an ex-parte order u/s 250 of Income Tax Act, 1961 ("the Act").*
2. *The learned CIT(A) erred in fact and in law in passing an ex-parte order without considering the facts on record in proper perspective.*
3. *The learned CIT(A) erred in fact and in law in passing an ex-parte order and confirming the addition of Rs. 5,11,691 despite the fact that returned income was accepted by the learned Income Tax Officer, National e-Assessment Centre, Delhi ("the AO").*
4. *The learned CIT(A) erred in fact and in law in confirming the action of the learned AO in disallowing the claim of the deduction of bad debts written off of Rs 5,11,691.*
5. *The learned CIT(A) erred in fact and in law in confirming the action of the learned AO in disallowing the claim of bad debts written off despite the fact the conditions stipulated u/s 36 of the Act has been satisfied.*
6. *The learned CIT(A) erred in fact and in law in charging interest u/s. 234A of the Act.*
7. *The learned CIT(A) erred in fact and in law in charging interest us. 234B of the Act.*
8. *The learned CIT(A) erred in fact and in law in charging interest u/s. 234C of the Act.*
9. *Your appellant craves the right to add to or alter, amend, substitute, delete or modify all or any of the above grounds of appeal.*

Facts of the Case:

3. The assessee filed its return of income for the A.Y. 2018-19 with an income of Rs. 1,11,23,226/-. The return was processed by CPC with a demand. Assessee filed a rectification application with CPC and the same was also processed with a demand of Rs.2,16,219. The case was selected for limited scrutiny and the assessment was completed by the Assessing Officer (AO) accepting the total income of the appellant after verification of details relating to bad debts written off amounting to Rs.5,11,691/-. However, a discrepancy was noted in the total income as per the computation sheet attached to the assessment order. According to which the assessed income

stood at Rs.1,16,34,924/- instead of Rs.1,11,23,226 as per the return of income resulting in demand of Rs. 2,09,055/-

4. The assessee filed an appeal before the Ld.CIT(A) seeking relief in disallowance of Rs.5,11,691/- on account of bad debts.

4.1. Ld.CIT(A) issued four notices to the appellant, which were not attended to by the appellant. Written submission was also not made by the assessee. Consequently, Ld.CIT(A) passed an order u/s.250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") dismissing the appeal of the assessee following the judicial pronouncements.

On the Ground Nos. 1 to 5:

5. During the course of the hearing, it was brought to our attention that the non-attendance by the assessee was due to the notices being sent to an incorrect email-address, which was not used by the assessee.

5.1. The Ld. Counsel for the assessee submitted that the assessment order finalized by the AO was based on certain verifications, yet there were discrepancies in the total income as per the order of the AO. The Ld. Counsel explained the fact that the necessary submissions like computation of income, ledger account extracts of NPA provisions were made to the AO with the help of documentary evidence. The Ld. Counsel for the assessee claimed that Ld.CIT(A)'s order was passed *ex-parte* without giving to the assessee a fair opportunity to present their case due to the erroneous communication channel.

6. The Ld. DR argued that there was no any submission before Ld.CIT(A) and, therefore, relied on the order passed by the Ld.CIT(A). Subject to this, she did not strongly object to the possibility of remitting the matter for fresh consideration.

7. Upon consideration of the facts and circumstances of the case and the submissions made by both parties, it is observed that the principles of natural justice have not been adequately adhered to in this case due to the incorrect email address being used for serving notices to the assessee. To avoid litigation, it is very important to quote the correct e-mail address in all communications with the department of income tax. In the name of justice, only the department of income tax should not be taken to the task. Assessee cannot shoulder off his prime responsibility to ensure that the correct e-mail address should be quoted especially when appeals are filed.

7.1. In view of the above and in the interest of justice, we deem it appropriate to set aside the impugned order of the Ld.CIT(A) and remit the matter back to the file of the AO. The AO is directed to give due effect to his assessment for the year under consideration and determine the correct income, after ensuring that all notices and communications are correctly addressed to the assessee's valid email-address and postal-address. The assessee shall be granted adequate opportunity to present all relevant details and evidence pertaining to their case. The assessee is also directed to co-operate with the AO and ensure that all submissions are made within the stipulated timeframe as directed by the AO.

8. Ground Nos.6 to 9 are consequential and general in nature, hence are not adjudicated separately.

9. In light of the above, the appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the Open Court on 28 May, 2024 at Ahmedabad.

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER *True Copy*
Ahmedabad, Dated 28/05/2024

Sd/-
(MAKARAND V.MAHADEOKAR)
ACCOUNTANT MEMBER

टी.सी.नायर, व.नि.स./T.C. NAIR, SK. PS

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)- (NFAC), Delhi
5. विभागीय प्रतिनिधि,अधिकरण आयकर अपीलीय ,राजकोट/DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad