

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH, AHMEDABAD**

BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

**ITA No.674/Ahd/2024
Assessment Year: 2011-12**

Ganesh Corporation, 15/16, Manipushpa Co-op. Housing Society, Part-6, Thaltej, Ahmedabad-380054 [PAN - AAEEFG 0665 M] (Appellant)	Vs.	Income Tax Officer, Ward 3(3)(2), previously, Ward 3(3)(8) Pratyakshkar Bhavan, Ahmedabad (Respondent)
Assessee by	Shri Darshan B. Gandhi, Advocate	
Revenue by	Shri Purushottam Kumar, Sr. DR	
Date of Hearing	13.06.2024	
Date of Pronouncement	19.06.2024	

ORDER

PER SUCHITRA KAMBLE, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as "CIT(A)" for short] dated 15.02.2024 passed under Section 250 of the Income Tax Act, 1961 [hereinafter referred to as "the Act" for short] for the Assessment Year (AY) 2011-12.

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

- "1. The reassessment notice was issued by the non-jurisdictional assessing officer - ITO Ward 3(2)(2) instead of jurisdictional assessing officer ITO Ward 3(3)(2) and hence entire proceedings is null-void and without jurisdiction.*
- 2. The reassessment order as well as appeal impugned appeal order are ex-party proceedings, in the interest of substantial justice to the appellant, the matter may kindly be remanded back to the appropriate authority.*
- 3. Learned CIT(A) has erred in law and on facts of the case in confirming the action of learned AO in passing the impugned order u/s 144 r.w.s. 147 of the Income Tax Act, 1961 though the same is invalid, illegal, without jurisdiction and non-est in the eyes of law.*

4. *Learned CIT(A) has erred in law and on facts of the case in confirming the action of learned AO in making an addition of Rs.34,15,328/- on account of accommodation entries in terms of bogus bills.*
5. *Learned CIT(A) has erred in law and on facts of the case in confirming the action of learned AO in charging interest u/s 234A/B/C/D of the Act.*
6. *Learned CIT(A) has erred in law and on facts of the case in confirming the action of learned AO in initiating penalty u/s 271(1)(c) of the Act.*
7. *Your appellant reserves the right to add, delete, modify or revise any ground of appeal."*

3. The assessee is assessed to tax in the status of "Firm" and filed its return of income on 18.08.2011, thereby declaring total income at Rs.63,640/-. The assessee firm is engaged in the business of running cinema theatre. The assessment was reopened after following due procedures and obtaining necessary approval from the competent authority. Notice u/s 148 of the Act was issued on 30.03.2018. The Assessing Officer observed that the assessee issued bogus bills and received commission of Rs.34,15,328/-, for which the assessee could not give any explanation. The assessment order is also passed under Section 144 r.w.s. 147 of the Act, and the Assessing Officer made addition of Rs.34,78,968/- observing that the accommodation entries taken by the assessee in terms of bogus bills has to be considered as undisclosed income of the assessee.

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 Ld. AR submitted that the assessee could not receive the hearing notices either before the Assessing Officer or before the CIT(A); therefore, both the Revenue authorities passed *ex-parte* orders without giving opportunity of hearing to the assessee. The Ld. AR further submitted that the Assessing Officer has passed *ex-parte* order without giving any observation related to the merits of the case. Therefore, the Ld. AR submitted that the matter may be

remanded back to the file of the Assessing Officer for proper adjudication of the issues on merit.

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

7. Heard both the parties and perused all the relevant material available on record. It is pertinent to note that the Assessing Officer as well as the CIT(A) has passed *ex-parte* order without giving the details of service of notice of hearing before both the authorities. Therefore, it would be appropriate to remand this matter back to the file of the Assessing Officer for proper adjudication of the issues on merit, after taking cognizance of the evidences produced by the assessee. Needless to say, the assessee be given opportunity of hearing by following the principles of natural justice.

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

Order pronounced in the open Court on this 19th June, 2024.

Sd/-

(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 19th day of June, 2024

BTK*

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