

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

**BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA No.401/Ahd/2024  
Assessment Year: 2010-11**

Shri Shankerji Fojaji Vanzara, 545-5, Sooraj Society, B/h. Samrat Nagar, Opp. Dal Mill, Bamroli Road, Godhra, Panchamahhal – 389 001. Gujarat. <b>[PAN – AHUPV 5657 R]</b>	Vs.	The Income Tax Officer, Ward – 1, Godhra.
(Appellant)		(Respondent)
Assessee by	Shri Sulabh Padshah, AR	
Revenue by	Shri Purushottam Kumar, Sr. DR	
Date of Hearing	12.06.2024	
Date of Pronouncement	20.06.2024	

**ORDER**

This appeal is filed by the assessee against order dated 10.03.2023 passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year 2010-11.

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

*“Your appellant being aggrieved by the order passed by the Ld. Commissioner of Income-tax (Appeals) (herein after referred to as 'Ld. CIT (Appeals)', Income tax Department National Faceless Appeal Centre (NFAC) presents this appeal against the same on the following amongst other grounds*

- 1. The Learned CIT (Appeals) has erred in passing an Ex-parte order and dismissing the appeal of the Appellant without appreciating the facts and circumstances of the case. It is submitted that the responses could not be filed before lower authorities due to circumstances beyond the control of the Appellant as mentioned in the separate affidavit filed. In view of this, the lower authorities may please be directed to hear the appellant again and the additions*

*made of Rs.32,72,311/- kindly be deleted after fresh verification of details and evidences.*

2. *The Learned CIT (Appeals) has erred in confirming the addition of Rs.32.72.311/- made on account of cash deposited and other credit entries reflected in bank. It is submitted that the Appellant is running small business of pulling up construction items and waste and having sufficient documentary evidences explaining the source of cash deposits and other credit entries, however the same could not be furnished because of circumstances prevailed beyond the control of the appellant. On the facts and circumstances of the case the addition made of Rs.32,72,311/- treating the same as unexplained money u/s.69A of the Act is incorrect and illegal and it is therefore prayed before your honour that the matter may please be set aside to Ld. CIT(A)/ to Ld. AO for the verification of details and impugned addition made please be deleted in the interest of justice.*
3. *The Order passed by the learned CIT(A) is bad in law and contrary to the provisions of law and facts. It is submitted that the same be held so now."*

3. The assessee is a resident individual and assessed to tax but failed to file return of income as per the observation of the Assessing Officer. The assessee's case was reopened under Section 147 of the Income Tax Act, 1961 rafter AIR information revealed cash deposit of Rs.19,75,710/- in Savings account of the assessee. Accordingly, notices under Section 148 and 142(1) of the Act were issued to the assessee, however, the assessee failed to file the return of income and also did not comply with any of the notices. Consequently, the Assessing Officer passed Assessment Order under Section 144 read with Section 147 of the Act thereby making addition of Rs.32,72,311/- on account of cash deposits and credit entries in savings bank account.

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 as the assessee was not residing at the address registered with the Registry during the period from 2016 to 2019, the assessee did not receive the notices and in fact the notices issued over email which belonged to the assessee's Tax Practitioner who died in 2014. Since the assessee did not receive any notice, the Assessing Officer has also passed ex-parte order but when through a Tax Consultant the assessee filed appeal before the CIT(A). The notices were issued to the email id. given to the earlier Tax Consultant. There was some miscommunication of the orders and, therefore, the assessee could not

file any appeal before the Tribunal and in January 2024 when the assessee approached the Tax Consultant the Tax Consultant advised to file the appeal before the Tribunal. Therefore, the delay was not deliberate but due to the miscommunication between the Tax Consultant and the assessee. The reason for delay of 301 days was explained by the assessee and in the peculiar circumstances of the present assessee's case, the delay is condoned.

5.1 The Ld. AR submitted the additional evidence application under Rule 29 of the Income Tax Rules, 1962 and submitted that the additional evidences be taken on record and due to the non-appearance before the both the Authorities, the matter may be remanded back to the file of the Assessing Officer for proper adjudication of the assessee's case.

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 due to the miscommunication between the Tax Consultant and the assessee, the assessee could not represent his case before the Assessing Officer as the earlier Tax Consultant died in 2014. In the interest of justice, it will be appropriate to remand back this matter to the file of the Assessing Officer for proper adjudication of the issues on merit after taking cognisance of the additional evidences filed by the assessee before the Tribunal. The additional evidences filed by the assessee is admitted. 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 purpose.

Order pronounced in the open Court on this 20<sup>th</sup> June, 2024.

*Sd/-*  
**(SUCHITRA KAMBLE)**  
Judicial Member

**Ahmedabad, the 20<sup>th</sup> June, 2024**

**PBN/\***

*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*