

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

BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

**ITA No. 849/Ahd/2023
Assessment Year: 2011-12**

Manishkumar Dahyabhai Patel, Vaniya Ni Khadki, At: Boriya, Tal: Petlad, Dist: Anand-388130 [PAN - BKQPP 6355 N]	Vs.	The ITO, Ward-1(3)(1), Petlad
(Appellant)		(Respondent)
Assessee by	Shri M.K. Patel, AR	
Revenue by	Shri Purushottam Kumar, Sr. DR	
Date of Hearing	13.06.2024	
Date of Pronouncement	24.06.2024	

ORDER

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 03.02.2023 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 Learned CIT(Appeals) erred in not granting the adjournment required on 08.02.2023.*
- (2) The appellant had requested for adjournment on 08.02.2023, however the same was disregarded by the learned CIT(Appeals)*
- (3) Learned CIT(Appeals) erred in adding a sum of Rs. 16,61,700/- as income of your appellant for the year under reference."*

3. No return of income for the relevant assessment year was filed by the assessee as required u/s 139 of the Act. As per the information available with the Revenue Department, it was observed that the assessee had deposited the cash of more than Rs.10 lakhs in the State Bank of India's account during the Assessment Year 2011-12. The case was reopened by issuing notice u/s 148 of

the Act dated 27.03.2018 and duly served upon the assessee. In response to the notice u/s 148 of the Act, no return of income was filed and the assessee has not appeared or participated in the assessment proceedings. Therefore, the Assessing Officer proceeded with the assessment u/s 144 of the Act. The Assessing Officer made addition of Rs.16,61,700/- as income from undisclosed sources u/s 69A of the Act.

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 there is a delay of 203 days in filing the present appeal as the assessee was not aware about the e-notices; and, in fact, the assessee was not knowing about the proceedings under the Income-Tax Act. Therefore, the Ld. AR contended that it is a genuine delay and the same may be condoned.

6. After going through the application for condonation of delay, it appears that the delay is genuine; and hence, the same is condoned.

7. The Ld. AR submitted that the CIT(A) has passed an *ex-parte* order without giving opportunity of hearing to the assessee; and, in fact, the Assessing Officer also decided the issue u/s 144 of the Act, therefore, the matter may be remanded back to the file of the CIT(A).

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

9. Heard both the parties and perused all the relevant material available on record. It is pertinent to note that the assessee has not received the hearing notices issued by the CIT(A) as the assessee was not aware about the technicalities of e-mail service of notice. The CIT(A) has passed an *ex-parte* order; therefore, in the interest of justice, it will be appropriate to remand this matter

back to the file of the CIT(A) for proper adjudication of the issues on merit. Needless to say, the assessee be given opportunity of hearing by following the principles of natural justice.

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

Order pronounced in the open Court on this 24th June, 2024.

Sd/-

(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 24th day of June, 2024

BTK*

Copies to:

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

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By order

*Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad*