

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'SMC' अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, AHMEDABAD

BEFORE SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER

ITA No.1029/Ahd/2018

Asstt.Year : 2011-12

Smt.Bharatiben S. Patel C/o. Illaben A. Patel "Gossip", Opp: Pragati High School Bhayli Village-Vadodara 391 410. PAN : AWEPP 3864 H	Vs	DCIT International Taxation Vadodara.
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(Applicant)		(Responent)
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Assessee by	:	None
Revenue by	:	Shri R.R. Makwana, Sr.DR

सुनवाई की तारीख / **Date of Hearing** : 21/11/2022

घोषणा की तारीख / **Date of Pronouncement**: 29/11/2022

आदेश/ORDER

The present appeal has been filed by the assessee against order passed by the Commissioner of Income Tax(Appeals)-13, Ahmedabad in short referred to as Id.CIT(A)) under section 250(6) of the Income Tax Act, 1961 ("the Act" for short), dated 27.2.2018 pertaining to Asst.Year 2011-12.

2. A perusal of the case files reveals that earlier the appeal of the assessee had been dismissed vide order dated 14.3.2022 noting consisting non-appearance and non-prosecution of appeal before the Tribunal, and accordingly dismissing the ground raised by the assessee vis a vis addition made u/s 69 of the Act of term deposits amounting to Rs.20,81,000/- remaining unexplained. Thereafter, the assessee filed a Misc.Application No.27/Ahd/2022 pleading that the assessee was unable to argue the matter for reasons specified in the application, considering which the Tribunal vide order 22.7.2022

recalled its order in the above ITA No.1029/Ahd/2018 and restored the appeal to its original number directing the appeal to be heard afresh. Accordingly, this appeal has come up before me in second round.

3. The matter was called for hearing today. But none appeared on behalf of the assessee nor any application seeking adjournment was filed. Order sheet reveals that on 29.7.2022 the matter has been fixed for hearing on 23.8.2022, and on the date there was no hearing and matter was posted for hearing on 7.9.2022. On 7.9.2022 none appeared on behalf of the assessee, and the matter got adjourned to 11.10.2022. On 11.10.2022, assessee filed adjournment application, and again the matter was adjourned to 21.11.2022. But on 21.11.2022 also none appeared on behalf of the assessee nor any application was filed on her behalf. Therefore, it is clear that the assessee is not interested in prosecuting her appeal before the Tribunal. Even on perusal of the order sheet passed in the first round of appeal, it would reveal that the appeal of the assessee was presented before the Tribunal on 24.4.2018 and till dismissal of appeal the assessee has remained unattended as many as eight times. The assessee it appears is habitual non compliant. Even when the appeal was restored for hearing afresh taking a considerate view on the Misc application filed by her, she has chosen to ignore the many opportunities granted for hearing thereafter. It is blatant misuse of the generosity of the ITAT which needs to be condemned in the strongest possible words. Such assesses, who blatantly misuse the procedures of law do not deserve any sympathy .

4. Since the appeal was earlier dismissed and thereafter restored for hearing afresh and the assessee it appears is not interested in availing this fresh opportunity of hearing ,we see no reason to take a different view on the matter before us as already decided by the ITAT vide its order dated 14/03/2022 confirming the addition made u/s 69 of the unexplained term deposits of Rs. 20,81,000/- holding as under:

“3. The addition made by the Ld. AO towards investment made in term deposit of Rs. 14,99,999/- on 24.05.2010 and Rs, 5,81,001/- on 31.05.2010 totaling of Rs. 20,81,000/- with the HDFC Bank treating the same as unexplained under Section 69 of the Act further confirmed by the Ld. CIT(A) is under challenge before us. We have duly considered the order passed by the Ld. AO and the First Appellate Authority as well.

4. We do not find any infirmity in those orders; neither any contrary facts and/or evidences has been brought to "our notice by the assessee. Hence, having no other alternative we confirm the order passed by the Revenue. Assessee's appeal is, thus, dismissed.

5. The above facts are not different even in second round of litigation before me. On none of the occasion right from the date of initiation of second round of litigation, the assessee has come forward to defend her case nor filed any explanation or details to support her claim. She failed to take advantage of second opportunity granted for arguing the appeal before the Tribunal. Therefore, looking to the entire conduct of the assessee in both rounds of litigation, the assessee is not entitled for any indulgence. The concurrent findings of both the Revenue authorities and the finding of the Tribunal in the first round of appeal, cannot be disturbed in absence of any assistance rendered by the assessee to support her case. I have no other alternative, but to reiterate the

order passed by the Tribunal and uphold order of the ld.Revenue authorities on this issue.

6. In the result, the appeal of the assessee is dismissed.

Order pronounced in the Court on 29th November, 2022 at Ahmedabad.

**Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER**

Ahmedabad, dated 29/11/2022