

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

सुश्री सुचित्रा काम्बले, न्यायिक सदस्य एवं
श्री मकरंद वसंतभाई महादेवकर, लेखा सदस्य के समक्ष।

BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER
AND
SHRI MAKARAND V. MAHADEOKAR, ACCOUNTNAT MEMBER

आयकर अपील सं./ITA No.405/Ahd/2019
निर्धारण वर्ष /Assessment Year : 2010-11

Mahendrabhai Shantilal Patel D-41, Sahjanand Apartment Nr. Sterling Hospital Gurukul Road, Memnagar Ahmedabad - 380 052	बनाम/ v/s.	The Dy.CIT Central Circle-1(3) Ahmedabad
स्थायी लेखा सं./PAN: AYVPP 7593 G		
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		Shri Vijay H. Patel, AR (Written submission)
Revenue by :		Shri Samir Tekriwal, CIT-DR

सुनवाई की तारीख/Date of Hearing : 04/07/2024
घोषणा की तारीख /Date of Pronouncement: 10/07/2024

आदेश/ORDER

PER SHRI MAKARAND V. MAHADEOKAR, AM:

This appeal is filed by the Assessee as against the order passed by the Ld.Commissioner of Income-tax(Appeals)-12, Ahmedabad [hereinafter referred to as "the Ld.CIT(A)"], dated 20/12/2018, arising out of the assessment order passed by the Assessing Officer (AO) under section 143(3) r.w.s.147 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") dated 28/12/2017 relevant to the Assessment Year (AY) 2010-11.

2. Grounds of appeal are as under:

" 1) In law, on facts and in the circumstances of the case, the impugned assessment order passed u/s. 143(3) r.w.s 147 of the Act by the Ld. A.O is against natural justice, bad in law and deserves to be cancelled.

2) On the facts and in the circumstances of the case, the Ld. CIT(A) has grossly erred in confirming the addition of Unaccounted receipts reflected in Form 26AS of Rs.34,21,408/- The A.O. may be directed to delete such addition.

3) On the facts and in the circumstances of the case, the Ld. CIT(A) has grossly erred in confirming the addition on account of summations of credit (cash & noncash) in bank account as Unexplained money u/s. 68 of the Act of Rs.81,09,90,322/-. The AO may be directed to delete such addition.

4) On the facts and in the circumstances of the case, the Ld. CIT(A) has grossly erred in confirming the addition on account of Unexplained money u/s.69A of the Act of Rs.1,62,19,806/-. The A.O. may be directed to delete such addition.

5) On the facts and in the circumstances of the case, the Ld. CIT(A) has grossly erred in confirming the addition on account of Unexplained money u/s.69A of the Act of Rs.1,60,13,738/-. The A.O. may be directed to delete such addition.

6) On the facts and in the circumstances of the case, the Ld. CIT(A) has grossly erred in confirming the addition on account of Unexplained money u/s.68 of the Act of Rs.1,26,80,100/-. The A.O. may be directed to delete such addition.

7) On the facts in law and in the circumstances of the case, the Ld. CIT(A) has grossly erred considering the initiation of the penalty proceedings u/s 271(1) (c) of the Act as prematured. The A.O. may be directed to withdraw the same.

8) On the facts and in the circumstances of the case, the Ld. CIT(A) has grossly erred in confirming charging of interest u/s 234A, 234B, 234C and 234D. The AO may be directed to withdraw the same.

The appellant craves leave to add, alter, amend or withdraw any grounds of Appeal on or before hearing of the appeal."

3. The brief facts of the case are that the assessee is an individual and having five different PANs [ACRPP5324K, AVVPP7593G, BBWPP6553M, BTDPP5159G & AUZPP8759L] with different fake addresses and has not filed any voluntary return of income u/s.139 of the Act, against any of the PAN, for the year under consideration. A search and seizure action was carried out in the case of assessee and assessee's group on 06/02/2017. During the course of search u/s.132 of the Act at assessee's residential premises situated at D-41, Sahajanand Apartment, Nr.Sterling Hospital, Gurukul Road, Memnagar, Ahmedabad, assessee's statement u/s 132(4) dated 06/02/2017 of the Act was recorded. The search action resulted into collection of evidences and other findings which conclusively proved that assessee, through a web of concerns run and operated by assessee, was engaged in providing accommodation entries of various nature; most prominent being the accommodation entries of bogus bills. The Assessee had deposed in unequivocal terms in assessee's statement u/s 132(4) of the Act dated 06/02/2017 that through a web of concerns/entities run and operated by him, he was engaged in activity of providing accommodation entries of various nature including accommodation entries of bogus bills. Accordingly, a notice u/s.148 of the Act was issued on 31/03/2017 which was duly served upon the assessee by RPAD Speed Post. The Assessing Officer completed the assessment u/s.143(3) r.w.s.147 of the Act and total income assessed at Rs.85,93,25,374/-.

4. Aggrieved against the assessment order, the assessee filed an appeal before the Ld.CIT(A), who also confirmed the demand made by the Assessing Officer and dismissed the appeal.

5. Aggrieved by the order of the Ld.CIT(A), the assessee is in appeal before us.

5.1. It is seen from the order-sheet noting that the assessee is died on 23.10.2020 itself and the assessee has not impleaded the Legal Heir and also not filed revised Form No.36 before this Tribunal. Today is the 39th time of hearing of this appeal, the position remains the same without impleading Legal Heir on record and no revised Form No.36 filed before us. Shri Kushal Fofaria on behalf of the Ld.AR for the assessee Shri Vijay H. Patel, submitted a written submission that he is unable to bring the Legal Heir on record, thereby he could not file revised Form No.36 before the Tribunal.

6. We have heard the Ld.DR for the Revenue. It is seen from the order-sheet noting that from 10/08/2023, there were request from the Ld.AR to bring on Legal Heir on record and to file revised Form No.36, However, as on today, no further improvement in impleading the Legal Heir on record. Thus, we could not adjudicate the appeal on a dead person, namely the assessee herein Shri Mahendrabhai Shantilal Patel. Therefore, the appeal filed by the assessee are liable to be dismissed for not bringing Legal Heir on record. Needless to say the Department is free to recover tax dues from the assessee in the manner known to law.

7. In the result, the appeal of the assessee in ITA No.405/Ahd/2019 for AY 2010-11 is hereby dismissed.

Order pronounced in the Open Court on 10th July, 2024 at Ahmedabad.

**Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

**Sd/-
(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER**

अहमदाबाद/Ahmedabad, दिनांक/Dated 10/07/2024

टी.सी.नायर, व.नि.स./T.C. NAIR, Sr. 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)-12, Ahmedabad
5. विभागीय प्रतिनिधि,आयकर अपीलीय अधिकरण ,राजकोट/DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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