

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

सुश्री सुचित्रा काम्बले, न्यायिक सदस्य एवं  
श्री मकरंद वसंत महादेवकर, लेखा सदस्य के समक्ष।  
BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER  
AND  
SHRI MAKARAND V. MAHADEOKAR, ACCOUNTNAT MEMBER

आयकर अपील सं./ITA No.852/Ahd/2023  
निर्धारण वर्ष /Assessment Year : 2015-16

Tarun Santramdas Varma 307-308, Sarthik Square Nr. New US Pizz, SG Highway Ahmedabad - 380 054 (Gujarat)	<b>बनाम/ v/s.</b>	The Asst.CIT Circle 4 (1)(1) Ahmedabad
<b>स्थायी लेखा सं./PAN: AAIPV 6427 C</b>		

<b>अपीलार्थी/ (Appellant)</b>		<b>प्रत्यर्थी/ (Respondent)</b>
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Assessee by :	Shri Parimal Sinh B. Parmar, AR
Revenue by :	Shri Sudhakar Verma, Sr.DR

सुनवाई की तारीख/Date of Hearing : 02/07/2024  
घोषणा की तारीख /Date of Pronouncement: 10/07/2024

**आदेश/ORDER**

**PER SHRI MAKARAND V. MAHADEOKAR, AM:**

This appeal is preferred by the Assessee against the order of the Ld.Commissioner of Income Tax (hereinafter referred to as "the Ld.CIT(A)"), National Faceless Appeal Centre (NFAC), Delhi, dated 29-8-2023 pertaining to the Assessment Year (AY) 2015-16, arising from the assessment order passed by the Assessing Officer (hereinafter referred to as

“AO”) u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as “the Act”).

**Facts of the Case:**

2. The assessee, an individual, filed his return of income for the AY 2015-16 on 01.01.2016, declaring a total income of Rs.3,30,16,670/- under the heads of salary, house property, capital gain, other sources, and agricultural income. As the assessee was not carrying on any business, no books of accounts were maintained.

2.1. The assessee’s case was selected for limited scrutiny, and a notice under section 143(2) of the Act was issued by the Deputy Commissioner of Income Tax (DCIT), Circle 3(1)(1), on 19.09.2016. Subsequently, a notice under section 142(1) of the Act dated 02.08.2017 was issued, calling for various information which was duly complied with by the assessee through his Authorized Representative from time to time.

2.2. During the course of assessment proceedings, based on the Annual Information Report (AIR) information, the assessee was asked to furnish details of cash deposited in the bank amounting to Rs.1,13,00,000/-. The assessee submitted the required details and documents to prove the source of cash deposited and explained the nature of the transactions to the Assessing Officer (AO). The cash deposits were primarily from agricultural income receipts and amounts received as advance per the Memorandum of Understanding (MOU) entered with various persons who are agriculturists in the area for the sale of plots of land.

2.3. Upon the request of the AO to produce the specific persons, who had given the advance, the assessee produced them. These individuals confirmed that they were agriculturists with sufficient means and had advanced the amount to the assessee. Despite the submissions and documentary evidence submitted by the assessee, the AO made an addition of Rs.1,13,00,000/- as unexplained cash credit under section 68 of the Act.

3. Aggrieved by the assessment order and the addition made, the assessee preferred an appeal before the Commissioner of Income Tax (Appeals) Ahmedabad-8, which was heard and decided by the Ld.CIT(A) NFAC.

3.1. During the course of appellate proceedings, the Ld.CIT(A)-NFAC issued multiple notices on 08.03.2019, 05.07.2019, 30.12.2020, and 07.07.2023 to the assessee. The Ld.CIT(A)-NFAC dismissed the appeal, concluding that the assessee was not interested in pursuing the appeal.

4. Therefore, the assessee is in appeal before us with the following grounds of appeal:

- "1. The Ld. CIT(A) has erred in law and on facts in passing ex-parte order without providing adequate opportunity of hearing to the appellant which is in gross violation of principles of natural justice.*
- 2. The Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in treating cash deposits in bank account of Rs. 1,13,00,000/- as unexplained cash credit u/s. 68 of the Act. Rs. 33,90,000/-*
- 3. In the facts and circumstances of the case, provisions of Section 68 of the Act have no application in absence of any sum being found credited in the books of the*

*appellant. Both the lower authorities erred in considering the bank passbook/statement as books of account of the appellant for the purpose of Section 68 of the Act.*

4. *Both the lower authorities have passed the orders without properly appreciating the facts and they further erred in grossly ignoring various submissions, explanations and information submitted by the appellant which ought to have been considered before passing the impugned order. This action of the lower authorities is in clear breach of law and Principles of Natural Justice and therefore deserves to be quashed.*
5. *Alternatively, and without prejudice, benefit of telescoping ought have been granted.*
6. *The learned CIT(A) has erred in law and on facts of the case in confirming action of the Id. AO in levying interest u/s. 234A/B/C/D of the Act.*
7. *The Ld. CIT(A) has erred in law and on facts of the case in confirming action of the Ld. AO in levying penalty u/s. 271(1)(c) of the Act.*
8. *The Appellant craves leave to add, amend, alter, edit, delete, modify or change all or any of the grounds of appeal at the time of or before the hearing of the appeal.*

**On the grounds of appeal:**

3. The Ld.Counsel for the assessee stated that, the assessee had made written submissions on 13.08.2019 and 29.08.2019 in response to the notice of the Ld.Commissioner of Income Tax (Appeals) Ahmedabad-8 dated 05.07.2019 which the Ld.CIT(A)-NFAC has not considered while dismissing the appeal.

4. We have noted the details of the submission made by the assessee and without going into the merit of the submission conclude that the Ld.CIT(A)-NFAC passed the order without considering the submissions already made by the assessee.

4.1. In view of the above facts and circumstances and in the interest of justice, we hereby set aside the order of the Ld.CIT(A). The matter is restored back to the file of the Ld.CIT(A) to decide afresh, after taking into consideration the submissions made by the assessee and providing a reasonable opportunity of being heard.

5. In the result, the appeal of the Assessee is treated as allowed for statistical purposes.

**Order pronounced in the Open Court on 10<sup>th</sup> 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) - (NFAC), Delhi
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