

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'A' अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, AHMEDABAD
BEFORE SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER
AND
MS. SUCHITRA RAGHUNATH KAMBLE, JUDICIAL MEMBER

ITA No.484/Ahd/2024
Assessment Year : 2017-18

Magna Vision Tradelinks and Consultancy LLP Shed No.9, Bhandari Estate Rakhial Gujarat. PAN : AATFM 9570 C	Vs.	ITO, Ward-6(1)(1) Ahmedabad.
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(Applicant)		(Respondent)
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Assessee by :	Shri Sunil Talati, AR
Revenue by :	Shri Sanjaykumar, Sr.DR

सुनवाई की तारीख/Date of Hearing : 10/07/2024
घोषणा की तारीख /Date of Pronouncement: 23/07/2024

आदेश/ORDER

PER ANNAPURNA GUPTA, ACCOUNTANT MEMBER

Present appeal has been filed by the assessee against order passed by the Id.Commissioner of Income (Appeal), National Faceless Appeal Centre, Delhi dated 19.1.2024 under section 250 of the Income Tax Act, 1961 [hereinafter referred to as "the Act" for short].

2. Grounds raised are as under:

1. *The Ld. CIT(A) has upheld the order passed u/s 143(3) of the IT Act even when supporting documents were furnished before the Assessing Officer. Such an order passed against the principles of natural justice is prayed to be quashed in the interest of justice. The same be held now.*
2. *The Ld. CIT(A)has erred in upholding the order passed by AO u/s 143(3)by misinterpreting the submissions filed and making addition of Rs.3,72,376/ on account of a negative cash balance during the year.*

It is submitted that at no point of time in the entire financial year under consideration, the cash balance went to negative or even reached to zero. In view of the same the incorrect addition made of Rs.3,72,376/- is prayed to be deleted.

3. *The L. CIT(A) has erred in upholding the order passed by AO u/s 143(3) by making an addition of Rs.1,85,32,624/- on account of deposits made in the bank account during the demonetization period i.e from 08h November 2016 to 31stDecember 2016. It is submitted that each and every amount deposited in the bank account is out of the money recovered from the debtors and amount withdrawn from the bank before demonetization period. In view of the same, the incorrect addition made of Rs.1,85,32,624/-is prayed to be deleted.*
4. *Even before your appellant could file the submissions for which adjournment was taken and without allowing any further opportunity or the opportunity of being heard via Video Conferencing, the Ld. CIT(A) passed the order dated 19-01-2024 sustaining the additions made without allowing the opportunity to submit further evidence. Such order passed in gross violation of the principles of natural justice, causing mental agony, and stress is prayed to be set aside to the file of the Ld. CITA) or the Assessing Officer for fresh adjudication.*
5. *The order passed by the learned CIT (Appeals) is bad in law and contrary to the provisions of law and facts. It is submitted that the same be held so now.”*

3. At the outset, the ld.counsel for the assessee contended that his solitary plea before us was to restore the matter back for reconsideration since orders passed by both the authorities below, Ld.CIT(A) and the Assessing Officer) was against the principles of natural justice. He contended that the ld.CIT(A) has passed an *ex parte* order without giving adequate opportunity of hearing to the assessee, and the AO had framed assessment without considering evidences filed before him.

Drawing our attention to the order of the ld.CIT(A), he pointed out to the relevant para therein listing out the opportunities granted to the assessee by the ld.CIT(A). Referring to the same, he stated that out of five opportunities so listed by the ld.CIT(A), the faceless hearing before the ld.CIT(A) was enabled only on the second occasion. First notice, therefore, given by the ld.CIT(A) was of no purpose. Therefore,

effectively, he stated, only three opportunities were given to the assessee for hearing by the Id.CIT(A), out of which, on one occasion i.e. against notice issued dated 26.12.2023, the assessee had filed an application seeking adjournment. Copy of the acknowledgement of e-proceedings before the Id.CIT(A) in this regard was filed before us. He, therefore, contended that it is evident that adequate opportunity of hearing to the assessee was not afforded by the Id.CIT(A).

4. Taking us, thereafter to the order of the AO, he pointed out, the AO had made addition on account of cash found deposited in his bank account to the tune of Rs.1.89 crores during the demonetization period, and based on his own analysis, arrived at a conclusion that books of accounts indicated that the assessee was maintaining records only on paper, and that the assessee was a paper-firm only. The Id.counsel for the assessee submitted that this finding of the AO is contrary to the records before him, which revealed that the assessee was in business during the impugned year reflecting huge turnover to the tune of Rs.87.70 crores . Ld.Counsel for the assessee pointed out that the duly audited books of accounts of the assessee reflecting the aforestated facts was before the AO. Ld.counsel for the assessee contended that disregarding this vital piece of evidence before him, the AO on his own whims and fancies had arrived at incorrect findings that the assessee was a fictitious entity and therefore made addition of the cash found deposited in its bank account to the tune of Rs.1.85 crores treating it as unexplained. Besides, he contended, the addition on account of alleged negative cash balance was also made to the income of the assessee, resulting in total addition of Rs.1.89 crores being made in the case of the assessee.

The Id.DR vehemently objected to the plea of the assessee for restoring the matter back to the AO

5. We have gone through the orders of the authorities below, and we agree with the ld.counsel for the assessee that the addition in the hands of the assessee primarily on account of cash found deposited during the demonetization period and negative cash balance reflected in the books, has been made without appreciating the records before the AO in the proper perspective. As rightly pointed out by the ld.counsel for the assessee, the assessee-firms audited financial data was before the AO. These results reflected huge turnover of Rs.87.7 crores, as also expenses commensurate to the same having been incurred. Ignoring this data the AO, we have noted, has merely because no proper explanation was forthcoming from the assessee for the huge cash deposits in its bank account, arrived at a finding that the assessee was a mere paper company.

6. We are of the view that merely because huge cash is found deposited would not led to the inference that the entity is a bogus entity. The AO is required to make proper inquiries of the transactions reflected in the books of the assessee leading to huge cash deposits, and only basis thereon, ought to have arrived at any finding in this regard. In the present case, we have noted that the AO has made no inquiry with respect to the transactions carried out by the assessee, which probably lead to huge cash deposits. He has pointed out no anomaly in the books of he assessee except for the fact that at one point of time, there was a negative cash balance in the books of the assessee.

In view of the same, we agree with the ld.counsel for the assessee that the matter needs reconsideration at the end of the AO, since, even the ld.CIT(A) has not afforded opportunity of hearing to the assessee.

7. In the light of the above, the appeal of the assessee is restored back to the AO for reconsideration afresh.

8. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the Court on 23rd July, 2024 at Ahmedabad.

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

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

Ahmedabad, dated 23/07/2024

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आदेश की प्रतिलिपि बग़ैर/ 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)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण / DR, ITAT,
6. गार्ड फाइल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad

1. Date of dictation- 11-7-2024
2. Date on which the typed draft is placed before the Dictating Member
3. Date on which the approved draft comes to the Sr.P.S./P.S. -
4. Date on which the fair order is placed before the Dictating Member for Pronouncement
5. Date on which the file goes to the Bench Clerk .. 23-7-2024
6. Date on which the file goes to the Head Clerk.....
7. The date on which the file goes to the Assistant Registrar for signature on the order.....
Date of Despatch of the Order.....