

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “ B ” BENCH**

**Before: Smt. Annapurna Gupta, Accountant Member
And Shri T.R Senthil Kumar, Judicial Member**

**ITA No:699/Ahd/2024
Assessment Year: 2017-18**

Kiran Kantilal Chokshi, 1, Karodai Pole, Nr. Old Vegetable Market, Vadodara-390001. PAN:ABDPC8025D (Appellant)	Vs	The I.T.O, Ward-3(1)(4) Vadodara. (Respondent)
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**Assessee Represented: Ms Urvashi Shodhan, AR
Revenue Represented: Shri Hrishikesh Hemant Patki,CIT-DR**

Date of hearing : 15-07-2024
Date of pronouncement : 24-07-2024

आदेश/ORDER

PER T.R. SENTHIL KUMAR, JUDICIAL MEMBER

This appeal is filed by the assessee as against the exparte appellate order dated 14.02.2024 passed by the the National Faceless Appeal Centre (NFAC), Delhi arising out of the assessment order passed under section 143(3) of the Income-Tax Act, 1961 [hereinafter referred to as "the Act"] relating to the Assessment Year (AY) 2017-18.

2. The brief facts of the case is that the assessee is an individual and engaged in the business of trading of Gold Bullion/Silver/old gold ornaments. The assessee filed its Return of Income for the Asst. Year 2017-18 on 31.10.2017, declaring total income of Rs.11,29,100/-. The case was selected for scrutiny assessment and various notices were issued on the cash deposits of Rs.2.9 crores on

Specified Bank Note currency in Bank of India and UCO Bank during the demonetization period. The assessee was asked to explain the source of cash deposit. After considering the explanation, the Assessing Officer treated the cash deposits as bogus and therefore added to the income of the assessee u/s.68 and also taxed the same under section 115BBE of the Act and demand tax thereon.

3. Aggrieved against the same, the assessee filed an appeal before the NFAC and sought for adjournments on 02.09.2022, 11.11.2022 and 05.09.2023. However, the Ld.CIT(A) found that the assessee failed to file the written submission in support of his Grounds of Appeal and also held that assessee has not responded to the hearing notices thereby dismissed the appeal for non-prosecution and without adjudicating the case on merits.

4. Aggrieved against the appellate order the assessee is in appeal before us raising the following grounds of appeal:

1. The Learned Commissioner of Income Tax (Appeals) erred in not issuing any notice after 09.05.2023 for which an adjournment was sought by the appellant.

2. The Learned Commissioner of Income Tax (Appeals) erred in not giving proper opportunity to the appellant to represent his case.

3. The Learned Commissioner of Income Tax (Appeals) erred in confirming the addition of Rs.2,90,00,000/- u/s 68 of the Act.

4. The Learned Commissioner of Income Tax (Appeals) erred in dismissing the appeal based on various decisions for non attendance referred in the appellate order despite the fact that no notice was issued after 09.05.2023 for which an adjournment was sought by the Counsel of the appellant.

5. The appellant craves the right to add to or alter, amend, substitute, delete or modify all or any of the above grounds of appeal.

5. The Ld.Counsel for the assessee brought to our notice to the adjournment request made by the assessee from time to time. Though the final request was made on 09.05.2023, the Ld.CIT(A) without giving any opportunity of further hearing passed this ex-parte order after a period of 8 months and also observing that the assessee has not availed the opportunity without considering the adjournment request made by the assessee. Thus, the Ld.Counsel pleaded that one more opportunity be given to the assessee, to substantiate its case with necessary evidences before the appellate authority in the interest of Principle of Natural Justice.

6. The Ld.DR appearing for the Revenue has no series objection and stated that assessee should make use of this final opportunity by producing all the necessary details before the appellate authority.

7. We have heard the rival arguments and perused the materials available on record. As against every hearing notices, the assessee sent adjournment request to NFAC. However, the same was not considered by the NFAC and passed ex-parte appellate order. Section 250(6) of the Act provides that the Ld.CIT(A) shall dispose of the appeal on merits and spelt out the reason for such decision. But here in this case, the Ld.NFAC has not discussed on merits, but simply reproduced the facts and grounds of appeal and dismissed the appeal for non-prosecution, which in our considered opinion is not correct in law. Thus, we set-aside ex-parte appellate order passed by the NFAC with a direction to give proper opportunity of hearing to the assessee and then pass order on merits. Needless to say the assessee should make use of this final opportunity by filing all necessary details and evidences filed before the NFAC to pass the order on merits.

8. In the result, the appeal filed by the assessee is allowed for the statistical purposes.

Order pronounced in the open court on 24/07/2024

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

**Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER**

Ahmedabad : Dated (True Copy) 24/07/2024

Manish