

IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "A" BENCH

**Before: Shri T.R. Senthil Kumar, Judicial Member And  
Shri Makarand Vasant Mahadeokar, Accountant Member**

**ITA No: 1121/Ahd/2023  
Asst. Year: 2009-10**

Mrs. Anujaben Manojkumar Mehta L/h of Late Shri Manojkumar Haribhai Mehta 16/A, Vaishali Society, Nr. Yuvraj Hotel, Halal, Dist. Panchmahal- 389350, Gujarat <b>PAN: AFSPM8618M (Appellant)</b>	Vs	Income Tax Officer, Ward-2, Godhra  <b>Respondent)</b>
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**Assessee Represented: Shri Manish J Shah, A.R. &  
Shri Rushin Patel, A.R.**

**Revenue Represented: Smt. Trupti Patel, Sr. D.R.**

Date of hearing : 22-08-2024

Date of pronouncement : 28-08-2024

**आदेश/ORDER**

**PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-**

This appeal is filed by the Legal Heir of the deceased assessee as against the exparte appellate order dated 08.11.2023 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), arising out of the reassessment order passed under section 147 of the Income

Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2009-10.

2. The brief facts of the case is that the assessee was an individual for the Asst. Year 2009-10. The assessee filed its Return of Income on 08-04-2010 declaring total income of Rs.1,70,460/-. Since there was substantial cash deposits in the assessee's bank account in Bank of Baroda, the assessment was reopened by issuing a notice u/s. 148 of the Act on 30-03-2016. In response, the assessee filed his Return of Income on 30-11-2016 declaring total income of Rs.3,48,178/-. The Assessing Officer added the cash deposits in the bank account of the assessee of Rs.87,08,707/- as unexplained income of the assessee and demanded tax thereon.

3. Aggrieved against the same, the assessee filed an appeal before Ld. CIT(A), very categorically in Form No. 35 that notices not to be sent on e-mail. However Ld. CIT(A), NFAC sent hearing notices through e-mail to the assessee and dismissed the appeal by stating that the Legal Heir of the assessee vide letter dated 21-12-2017 informed the death of the assessee by furnishing Death Certificate.

4. Ld. Counsel Mr. Manish J. Shah appearing for the assessee submitted that the Legal Heir is prepared to appear before the Ld. CIT(A) by furnishing all relevant materials/documents so that one more opportunity of hearing be given to the Legal Heir to decide the case on merits. Further the Legal Heir has not received any hearing notices, therefore requested the assessee be given one physical hearing notice so that the Legal Heir could attend the appellate proceeding before Ld. NFAC.

5. Ld. Sr. D.R. Smt. Trupti Patel appearing for the Revenue has no objection in setting aside the matter back to the file of Ld. CIT(A), NFAC.

6. It is seen from the Ld. CIT(A)'s order, it is not clear how many opportunities of hearing given to the assessee from 2017, but simply dismissed that no explanation or supporting evidences filed by the Legal Heir and thereby confirmed the addition of Rs.87,08,707/-. Therefore in the interest of Principle of Natural Justice, the exparte order passed by Ld. CIT(A) is hereby set aside with a direction to the Ld. CIT(A) to issue physical hearing notice to the Legal Heir of the assessee and decide the matter on merits. Needless to state that the Legal Heir should make use of this final opportunity and represent his case with all necessary documents, details, evidences before Ld. NFAC and get adjudicated its appeal on merits. With this observation, the appeal filed by the assessee is hereby allowed.

7. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 28 -08-2024

**Sd/-**  
**(MAKARAND VASANT MAHADEOKAR)**  
**ACCOUNTANT MEMBER True Copy**  
**Ahmedabad : Dated 28/08/2024**

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

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. Assessee
2. Revenue

3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलिय अधिकरण,  
अहमदाबाद