

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

सुश्री सुचित्रा काम्बले, न्यायिक सदस्य

BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

आयकर अपील सं./ITA Nos. 442-443/AHD/2024

निर्धारण वर्ष/Asstt. Years: (2013-2014 & 2014-15)

Monika Kalpesh Sheth, C/o, Divyang Shah & Co., Chartered Accountants, 201, Devashish Complex, Nr. Regenta Central Antarim Hotel, Off CG Road, Ahmedabad-380009. PAN: ANEPS9654D	बनाम Vs.	ITO, Ward 1(3)(1), Ahmedabad.
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(अपीलार्थी /Appellant)		(प्रत्यर्थी /Respondent)
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Assessee by :	Shri Divyang Shah, AR
Revenue by :	Shri Ramesh Kumar, Sr.DR

सुनवाई की तारीख/Date of Hearing : 12/08/2024

घोषणा की तारीख/Date of Pronouncement: 03 /09/2024

आदेश/ORDER

PER SUCHITRA KAMBLE, JM:

The captioned appeals have been filed at the instance of the Assessee against the order dated 26/02/2023 passed by the National Faceless Appeal Centre(NFAC)/CIT(A), arising in the matter of assessment order passed

under s. 147 r.w.s 144 of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Years 2013-14 & 2014-15.

2. The assessee has raised the following grounds of appeal in **ITA No.442/Ahd/2024 for AY 2013-14.**

1. Whether, on facts and in circumstances of the case and in law, Ld.CIT(A) has erred in making addition of Rs.32,33,000/- as unexplained cash credit u/s.68 of the Act.

2. Whether, on facts and in circumstances of the case and in law, Ld.Assessing Officer has erred in issuing notice u/s.148 of the act?

Further, appellant craves leave to add, amend, alter or withdraw all or any ground of appeal.

3. The assessee has raised the following grounds of appeal in **ITA No.443/Ahd/2024 for AY 2014-15.**

1. Whether, on facts and in circumstances of the case and in law, Ld.CIT(A) has erred in making addition of Rs.18,50,000/- as unexplained cash credit u/s.68 of the Act.

2. Whether, on facts and in circumstances of the case and in law, Ld.Assessing Officer has erred in issuing notice u/s.148 of the act?

Further, appellant craves leave to add, amend, alter or withdraw all or any ground of appeal.

4. Both the appeals are identical we are taking fact of ITA No.442/Ahd/2014 for AY 2013-14. The assessee filed return of income for the year under consideration on 30/09/2013 declaring total income at Nil. The assessing officer after receiving information observed that the assessee had received accommodation entries in the form of either LTCG/STC loss or unsecured loans and the total transaction value in the penny scrip was

Rs.78,98,897/-. The case was re-opened and the notice u/s.148 of the Income tax Act, dated 27/12/2021 was issued by the AO followed by notice u/s.142(1) of the Act along with the detailed questionnaire. In response, the assessee submitted submissions on various occasions and thereafter taking into consideration assessing officer completed the assessment u/s.147 r.w.s 144B of the Act vide order dated 30/03/2022, thereby making the addition of Rs.32,33,000/- as the source of purchase of company scrip of Wagend Infra Venture Limited was not explained.

5. Being aggrieved by the Assessment Order, the assessee filed a appeal before the Ld.CIT(A). The Ld.CIT(A) dismissed the appeal of the assessee.

6. The Ld.AR submitted that the Ld.CIT(A) has not given the opportunity of hearing to the assessee and simply dismissed the matter without taking cognizance of the basic fact of the assessee's case. The Ld.AR requested that matter may be remand back to the file of the Ld.CIT(A) for proper adjudication of the issues contested therein after taking cognizance of the evidences on merits.

7. The Ld.DR relied upon the assessment order and the order of the Ld.CIT(A).

8. Heard both the parties and perused the relevant materials available on records. It is pertinent to note that the the assessee has requested adjournments on 4 occasion as the assessee needed the requisite evidences to establish his case. But the Ld.CIT(A), has not given the sufficient opportunities to the assessee in representing his case and decide the case

without making any discussion on merits. Therefore, in the interest of justice it will be appropriate to remand back this matter to the file of the Ld.CIT(A) for proper adjudication as the assessee has now received the details/evidences and after verification of the same the Ld.CIT(A) will adjudicate the matter on merits as per the Income-tax statute. Needless to say, the assessee be given opportunity of hearing by following the principle of Natural Justice.

9. As regard to the **ITA No.443/Ahd/2024 for AY 2014-15**, the Ld.CIT(A) has passed ex-parte order therefore this matter is also remand back to the file of the Ld.CIT(A) for proper adjudication of the issues contested therein on merits after verifying the evidences/details filed by the assessee before the Ld.CIT(A). Needless to say, the assessee be given opportunity of hearing by following the principle of Natural Justice

10. In the result, both the appeals filed by the assessee are partly allowed for the statistical purposes.

Order pronounced in the Open Court on 03rd September, 2024 at Ahmedabad.

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

(True Copy)

अहमदाबाद/Ahmedabad, दिनांक/Dated 03/09/2024

Manish, Sr. PS