

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AHMEDABAD**

**BEFORE Ms. SUCHITRA KAMBLE, JUDICAL MEMBER &
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No. 1072/Ahd/2024

(निर्धारण वर्ष / Assessment Year : 2017-18)

Ashit Dhirajlal Doshi 26 Basant Bahar –III, Nr. Homeopathic Medical College, Bopal Ghuma Road, Bopal, Ahmedabad, Gujarat, 380054	बनाम/ Vs.	The ACIT Circle-1(1)(2), Ahmedabad
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AACPD7752Q		
(Appellant)	..	(Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Mehul K. Patel, Advocate
प्रत्यर्थी की ओर से/Respondent by :	Shri Rohit Aasudani, Sr. DR

Date of Hearing	03/09/2024
Date of Pronouncement	05/09/2024

ORDER

PER SHRI NARENDRA PRASAD SINHA, AM:

This appeal is filed by the assessee against the order of the National Faceless Appeal Centre, Delhi, (in short ‘the CIT(A)’), dated 20.03.2024 for the Assessment Year (A.Y.) 2017-18.

2. The brief facts of the case are that the assessee had e-filed his return of income for AY 2017-18 on 31/03/2018 declaring total income of Rs.11,64,620/-. The case was selected for scrutiny under CASS to examine the huge deduction claimed under section 57 of the Income Tax Act, 1961 (in short ‘the Act’).

The assessment was completed u/s 143(3) on the Act 18/12/2019 at total income of Rs.48,22,180/-. The AO had made a disallowance of Rs.36,57,560/- in respect of deduction for interest claimed u/s 57 of the Act.

3. Aggrieved with the order of the AO, the assessee had filed an appeal before the First Appellate Authority which was decided by the Ld. CIT(A) vide the impugned order and the appeal of the assessee was dismissed.

4. The assessee is now second appeal before us and has taken the following grounds in this appeal:

“(1) That on facts and in law the learned NFAC-CIT(A) has grievously erred in not providing sufficient and reasonable opportunity of hearing, and in dismissing the appeal vide an ex-parte order.

(2) That on facts and in law the learned NFAC-CIT(A) has grievously erred in confirming the disallowance of claim of deduction u/s 57 of the Act of interest paid of Rs.36,57,560/-.”

5. Shri Mehul K Patel, Ld. AR appearing for the assessee submitted that the Ld. CIT(A) has passed ex-parte order and the merits of the addition was not decided by him. He explained that the assessee was not allowed sufficient opportunity by the Ld. CIT(A) to represent his case. The first notice was issued by the Ld. CIT(A) on 22nd February 2021, during the Covid pandemic period, which could not be complied. Thereafter, only two opportunities were provided by the Ld. CIT(A) on 15/02/2024 and on 06/03/2024. The Ld. AR explained that the assessee was

not tech savvy and the notices sent by the Ld. CIT(A) on the email could not be accessed in time. As a result no compliance could be made before the Ld. CIT(A). The Ld. AR requested that the matter may be set aside to file of the Ld. CIT(A) to allow another opportunity to the assessee and that he may be directed to decide the matter on the merits of the case.

6. Per contra, Sri Rohit Asudani, the Ld. SR. DR supported the order of the Ld. CIT(A).

7. We have carefully considered the rival submissions. It is found that the Ld. CIT(A) appeal had allowed only three opportunities to the assessee. The first notice dated 22.02.2021 was issued during the Covid pandemic period, which could not be complied by the assessee. Thereafter, the Ld. CIT(A) had allowed two more opportunities to the assessee after a gap of almost three years on 15.02.2024 and on 06.03.2034. The submission of the assessee is that he could not access the notices sent on the email in time and, therefore, no compliance could be made before the Ld. CIT(A). Considering the submissions of the assessee we deem it proper, in the interest of justice, to set aside the matter to the file of the Ld. CIT(A) to allow another opportunity of being heard to the assessee. It is found that the Ld. CIT(A) had given a finding that in the absence of any explanation along with the proper evidence, he had no option but to confirm the addition as made by the AO. Thus, the merits of the case were not examined by the Ld. CIT(A) in the absence of

any compliance on the part of the assessee. The Ld. CIT(A) is, therefore, directed to allow another opportunity to the assessee to make submissions in respect of the addition as made by the AO and thereafter decide the matter on its merits. The assessee is also directed to make compliance before the Ld. CIT(A) and not to seek adjournment without any valid reason.

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

This Order pronounced on 05/09/2024

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Ahmedabad; Dated 05/09/2024
S. K. SINHA

Sd/-
(NARENDRA PRASAD SINHA)
ACCOUNTANT MEMBER

True Copy

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)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

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