

THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "B" BENCH

**Before: Ms. Annapurna Gupta, Accountant Member
And Shri TR Senthil Kumar, Judicial Member**

**ITA No. 351/Ahd/2024
Assessment Year 2011-12**

Ashvinbhai Bhimjibhai Patel Limbani, 16/3, Muktidham Estate Opp. Danev Park, Nikol Gam Road, Nikol, Ahmedabad PAN: AALPP3430A (Appellant)	Vs	The ITO, Ward-3(3)(5), Ahmedabad (Respondent)
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**Assessee by: Shri Parin S. Shah, A.R.
Revenue by: Shri Prateek Sharma, Sr. D.R.**

Date of hearing : 04-07-2024
Date of pronouncement : 24-09-2024

आदेश/ORDER

PER : TR SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the assessee as against the ex-parte appellate order dated 16-08-2023 passed by NFAC, Delhi arising out of the reassessment order passed u/s. 143(3) r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred to as the 'Act') relating to assessment year 2011-12.

2. Registry has noted that there is a delay 133 of days in filing the appeal. The assessee has filed an affidavit explaining that the hearing notices of Ld. CIT(A) were gone to the former C.A. who has not informed the hearing dates to the assessee. However, on 05-07-2023, the assessee got SMS regarding the further hearing and the later Counsel, Shri Parin Shah, sought for adjournment on 20-07-2023. However, on 05-01-2024 an Inspector attached with the Department called the assessee, informing the recovery proceedings pursuant to ex-parte appellate order by ld. CIT(A), then the assessee came to know about the ex-parte order which has resulted in delay of 133 days in filing the above appeal before the Tribunal. The delay is neither willful nor wanton and therefore requested to condone the delay in the interest of justice. The ld. Sr. D.R., Shri Prateek Sharma, appearing for the revenue has no serious objection, hence the delay of 133 days in filing the above appeal is hereby condoned.

3. At the outset, the ld. counsel, Mr. Parin S. Shah, stated that the matter be considered for remitting it back to the file of CIT(A) to decide the case on merits. Since its reopening of assessment, the assessee challenged the validity of reopening as well as merits of the case, since the appellate order being an ex-parte order and requested to set aside the matter back

to the file of CIT(A). Further, ld. counsel undertaken to file all relevant materials and evidences will be filed before ld. CIT(A).

4. Ld. Sr. D.R., Shri Prateek Sharma, appearing for the revenue submitted that this should be the final opportunity given to the assessee.

5. We have given our thoughtful consideration and perused the materials available on record. Since the appellate order being an ex-parte order, we deem it fit to set aside the matter back to the file of CIT(A) so that the assessee is directed to file all relevant materials and records before CIT(A) and he can pass order on merits of the case. Needless to say, the assessee should make this final opportunity given to him and co-operate with the ld. CIT(A) for passing order on merits.

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

Order pronounced in the open court on 24-09-2024

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER
Ahmedabad : Dated 24/09/2024

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 अपीलीय अधिकरण,
अहमदाबाद