

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AHMEDABAD
BEFORE DR. BRR KUMAR ACCOUNTANT MEMBER**

**ITA No.189/Ahd/2024
Asstt.Year : 2014-15**

Jaydevsingh Rajendrasingh Kushwah 44, Kasturbanagar Opp: Haribhai Godani Hospital, Saraspur Ahmedabad 380 018. PAN : AGIPK 9887 D	Vs	ITO, Ward-6(1)(5) Ahmedabad.
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(Applicant)		(Responent)
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Assessee by :	Shri Kalpesh Shah, AR
Revenue by :	Shri Ravindra, SR.DR

सुनवाई की तारीख/**Date of Hearing** : 08/10/2024
घोषणा की तारीख /**Date of Pronouncement**: 08/10/2024

आदेश/ORDER

This is assessee's appeal against the order of the ld.Commissioner of Income Tax (Appeal), National Faceless Appeal Centre (NFAC), Delhi dated 15.12.2023 for the Asst.Year 2014-15 passed under section 250 of the Income Tax Act, 1961 ("the Act" for short).

2. The grounds raised by the assessee in the appeal read as under:

“1. The Learned CIT Appeals has erred in passing and confirming Ex-Parte Order of Assessment based on the basis of doubt, surmise and conjecture, rather than judicially appreciating the cogent material and evidences on record. It is therefore prayed that addition of Rs.31,00,000 may kindly be deleted.

2. The Learned CIT Appeals also erred in disposing off the appeal without passing reasoned and speaking order on merit. Under the provisions of Section 250, it is a settled position that irrespective of then on-appearance of the Assessee before the CIT(A), the CIT(A) ought to have dealt h the issues so raised by the Assessee on merits and to pass order by way of speaking order and in accordance with the law.

6. *The Learned AO has passed the orders without properly appreciating the facts and they further erred in grossly ignoring various submissions, explanations and information submitted by the appellant from time to time which ought to have been considered before passing the impugned order, The action of the lower authorities is in clear breach of law and Principles of Natural Justice and therefore deserves to be quashed.*

6. *The ld. CIT Appeals has not considered the ground taken in the appeal that the order passed by the Assessing officer is time barred. The order passed, served and issued by the AO is after the statutory time limitation period as mentioned in IT Act i.e. order is required to be issued on or before 31-12-2019, but order was served and issue to the applicant on 02-01-2020, The action of the lower authorities is in clear breach of law and Principles of Natural Justice and therefore deserves to be quashed.*

5. *In law, on the facts and circumstances of the case, the AO has grossly erred in initiating the various penalty proceedings of the act when no such penalty is exigible. Since the proceedings are wrongly initiated, AO may be directed to withdraw such proceedings.*

6. *The appellant craves leave to add, amend, alter, edit, delete, modify or change all or any of the grounds of appeal at the time of or before the hearing of the appeal.”*

3. The grounds raised by the assessee are descriptive in nature, and the effective issue is ground no.1. In Ground No.1 of the appeal, the assessee pleaded that the ld.CIT(A) erred in passing and confirming *ex parte* order of assessment based on the basis of doubt, surmise and conjecture, rather than judicially appreciating the cogent material and evidences on record.

4. Heard both the parties.

5. On going through the records, we find that the *ex parte* order has been necessitated due to non-compliance of all four notices issued by the ld.CIT(A) to the assessee.

Before me, it is pleaded that given an opportunity, due compliance would be made before the ld.CIT(A). Hence, the matter is being remanded to the ld.CIT(A) for *de novo* adjudication on merits after providing due opportunity of hearing to the assessee.

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6. In the result, the appeal of the assessee is allowed for statistical purpose.

Dictated on the Open Court, typed and pronounced on 8th October, 2024.

Copy of this order be given to the assessee. The Registry is directed to dispatch as per procedure.

Sd/-
(DR. BRR KUMAR)
ACCOUNTANT MEMBER

Ahmedabad, dated 08/10/2024