

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

**ITA No.1422/Ahd/2024  
Asstt.Year : 2011-12**

Kalpeshkumar Kalidas Patel T-9, Aakanksa Apartment Nr.Sola Crossing, Ghatlodia Ahmedabad. PAN : ALBPP 4829 J	Vs	The ITO, Ward-4(2)(2) Ahmedabad.
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<b>(Applicant)</b>		<b>(Responent)</b>
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Assessee by :	Shri Aseem Thakkar, CA
Revenue by :	Shri Ravindra, SR.DR

सुनवाई की तारीख/**Date of Hearing** : 09/10/2024  
घोषणा की तारीख /**Date of Pronouncement**: 09/10/2024

**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 3.6.204 for the Asst.Year 2011-12 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 Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi has erred in passing an Ex Parte Order dismissing the appeal without providing reasonable opportunity of being heard to the appellant. Hence the same being against the principles of natural justice and equity requires to be quashed.*
2. *The Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi has erred in confirming the action of the Assessing Officer in issuing notice u/s.148 of the Income Tax Act, 1961 which is illegal and bad in law and hence the assessment so made requires to be quashed.*
3. *The Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi has erred in confirming the action of the Assessing Officer in issuing notice u/s.148 of the Act only on the basis of*

*AIR information on the ITD system in respect of the assessee that the assessee had purchased immovable property of Rs.5,00,000/- and received contract receipt of Rs.4,08,167/- for A.Yr.2011-12.*

*4. The Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi has erred in confirming the action of the Assessing Officer in completing the assessment without serving statutory Notice u/s. 143(2) of the I.T. Act, 1961 on the Appellant. Hence the Assessment so made being void ab initio requires to be cancelled.*

3. Heard both the parties, gone through the impugned orders and perused the material available on record, as also pleadings in the grounds of appeal.

4. At the outset, both the parties fairly submitted that the *ex parte* of the ld.CIT(A) has been passed owing to non-compliance of notice issued by the ld.CIT(A).

A perusal of the pleadings in the grounds of appeal indicate that the addition involved is Rs.4,08,167/- which represented contract receipt on the basis of AIR information about the assessee having purchased immovable property worth Rs.5,00,000/- as per the specific information received from Sub-Registrar's office. The ld.counsel for the assessee submitted that given one more opportunity, due compliance will be made before the ld.CIT(A) to prove the claim of the assessee.

5. In view of this submission of the ld.counsel for the assessee at Bar, it is in the fitness of thing to remand the matter back to the file of the ld.CIT(A) and give one more opportunity to the assessee to establish his case. Needless to say, in the set aside/ remand proceedings the ld.CIT(A) shall provide reasonable opportunity of hearing to the assessee as per law. Hence, the appeal of the assessee is treated to be allowed for statistical purpose

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6. The appeal of the assessee is allowed for statistical purpose.

Dictated on the Open Court, typed and pronounced on 9<sup>th</sup> 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 09/10/2024