

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

**BEFORE DR. BRR KUMAR, ACCOUNTANT MEMBER &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.857/Ahd/2024
(Assessment Year: 2015-16)

Mukesh Narpatlal Shah, C-201, Dev Archan Flats, Opp. Kochrab Ashram, B/h. Bony Travels, Paldi, Ahmedabad-380007	Vs.	Income Tax Officer, Ward-2(1)(2), Ahmedaba2
[PAN No.AMKPS9584P]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Sudhir Mehta, Advocate
Respondent by:	Shri Prothviraj Meena, CIT-DR & Shri Waghe Prasad Rao, S.R.-DR

Date of Hearing	17.10.2024
Date of Pronouncement	17.10.2024

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Centre, (in short “NFAC”), Delhi vide order dated 26.02.2024 passed for A.Y. 2015-16.

2. The Assessee has taken the following grounds of appeal:-

“1. The assessing officer erred in the eye of law and facts in issuing notice u/s 148 of the Income Tax act as there was no legal evidence on the basis of which reason to believe can be justified.

2. The CIT(A) erred in law to confirm the addition on account of cash credit of Rs. 4,61,87,784/- u/s 68 of the Act. All the credits were received in bank account of the assessee from banking channels from the parties who themselves are Income Tax

assessee. The source of the credit is the bank account of the depositor. The additions made are arbitrary and without any adverse material on record.

3. *The assessing officer erred in passing the order u/s 144 of the Act. The reasons for passing order u/s 144 are total wrong as the assessee fully complied with the notice u/s 148 of the IT Act by filing the ITR on 24/11/2021 similarly all the notice u/s 142(1) were properly responded.*

4. *CIT(A) has erred in law and facts making addition of the long term capital gain of Rs. 3,18,144/- as unexplained credit after denial of exemption u/s 10(38) though the same was genuine gain.*

5. *No proper and specific opportunity was given to the assessee and as such additions made are bad in the eye of law and against the principle of natural justice.*

6. *The Learned CIT(A) has erred in law to confirm the assessment order which is bad in law and on facts and against the natural justice.*

7. *The Learned ITO has initiated penalty proceedings 271(1)(c) when there is no concealment of Income or furnishing inaccurate particulars of Income. It is submitted that the additions made in the assessment order cannot be held as concealment of Income.*

8. *The appellant craves leaves to add, alter and or to amend all or any of the grounds of the appeal.*

9. *Even otherwise, the impugned orders are illegal, bad in law.”*

3. It is submitted before us by the Ld. Counsel for the assessee the fact of which was also not disputed by the Ld. D.R. that the issues involved in the assessment order and the order of the Ld. CIT(A) are at variance with each other. We also observe that the order of the Ld. CIT(A) dated 26.02.2024 is an ex-parte order. Hence, keeping in view and facts on record we feel it is a fit case to remand back the matter to the Ld. CIT(A) to adjudicate the issue, after duly considering the facts of the assessment order and the grounds taken by the assessee.

4. The Ld. CIT(A) shall issue notice of hearing to the assessee and assessee shall reply to notices issued by the Authorities, from time to time.

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

This Order is pronounced in the Open Court on 17/10/2024

Sd/-
(DR. BRR KUMAR)
ACCOUNTANT MEMBER

Ahmedabad; Dated 17/10/2024

TANMAY, Sr. PS

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