

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "B" BENCH

**Before: Shri T.R. Senthil Kumar, Judicial Member
And Shri Narendra Prasad Sinha, Accountant Member**

**ITA No. 149/Ahd/2018
Assessment Year 2013-14**

Jayshriben Vinodbhai Prajapati L/h of Vinodbhai Ganeshbhai Prajapati, 186, Prajapati Vas, Moti Devti, Tal: Sanand, Ahmedabad-382213 PAN: BRCPP1274R (Appellant)	Vs	The ITO, Ward-3(2)(5), Ahmedabad (Respondent)
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**Assessee Represented: Shri S.N. Divetia, A.R.
Revenue Represented: Shri C Dharnidas V.S., Sr.D.R.**

Date of hearing : 20-08-2024
Date of pronouncement : 04-11-2024

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against the appellate order dated 03.10.2017 passed by the Commissioner of Income Tax (Appeals)-7, Ahmedabad arising out of the exparte assessment order passed under section 144 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2013-14.

2.The brief facts of the case is that the assessee is an individual filed his Return of Income for the Asst. Year 2013-14 on 16-12-2014 declaring total income of Rs. 68,900/-. The case was selected for scrutiny assessment, since unexplained cash deposits in the bank account as well as claim of exemption of Rs.61,52,600/- on purchase of land bearing Survey No. 171 at Chaloda as against Short Term Capital Gain on sale of land bearing Survey No. 200/2 at Dholka.

2.1. During the course of assessment proceedings, the Assessing Officer issued various notices to the assessee calling him to explain cash deposits in bank account and the sale of immovable property. However there was neither response from the assessee nor filed any details before the A.O., thereby the Assessing Officer made addition u/s. 68 of Rs.22,00,000/- on cash deposits and addition on account of Short Term Capital Gain of Rs. 1,03,90,740/- and demanded tax thereon.

3. Aggrieved against the same, assessee filed an appeal before Ld. CIT(A). The Ld. CIT(A) confirmed the addition of cash deposits of Rs.22,00,000/- since the assessee has not filed any additional evidence under Rule 46A of the I.T. Rules. Further the Authorized Representative vide his letter dated 22-09-2017 has not pressed ground no. 2 namely addition on account of STCG thereby the second ground also dismissed.

4. Aggrieved against the same, the assessee filed this present appeal before us on 15-01-2018. It is thereafter the assessee

expired on 05-10-2023 and the present Legal Heir is substituted in the place of the deceased assessee.

5. Ld. Counsel Shri S.N. Divetia appearing for the assessee strongly contested without any instruction from the assessee, the Authorized Representative vide his letter dated 22-09-2017 not pressed the ground no. 2 before Ld. CIT(A), which is not binding upon the assessee. Therefore the Legal Heir being given another opportunity of hearing on the additions made by the A.O. which was confirmed by Ld. CIT(A). Ld. Counsel also relied upon few case laws in support of his arguments. It is seen from record that this Tribunal had called for information from the Department, the so called letter dated 22-09-2017 by the Authorized Representative who appeared before Ld. CIT(A). The Revenue vide its letter dated 26-12-2022 furnished copy of the letter dated 22-03-2017 by the A.R. as well as order sheet entries made before Ld. CIT(A), the same were furnished to the assessee also.

6. We have heard rival submissions and perused the materials placed on record. The assessee has filed a detailed Paper Book running to 129 pages including the Cash Deposits, Bank Statements, Sale Deed dated 22-03-2013 and Purchase Deed dated 07-02-2013. Since the assessee has not appeared before the A.O. and substantial additions were made by the A.O. without materials on record. Therefore in the interest of Principle of Natural Justice, we deem it fit to set aside the matter back to the file of Jurisdictional Assessing Officer (JAO) to consider the case on merits by giving one more opportunity of hearing to the Legal Heir

of the assessee. Needless to say, the assessee should cooperate by furnishing all required details before the JAO to pass order on merits of the case.

7. In the result, the appeal filed by the Assessee is allowed for statistical purpose.

Order pronounced in the open court on 04-11-2024

Sd/-
(NARENDRA PRASAD SINHA)
ACCOUNTANT MEMBER
Ahmedabad : Dated 04/11/2024

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