

THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "A" BENCH

**Before: Ms. Suchitra Kamble, Judicial Member
And Shri Makarand V. Mahadeokar , Accountant Member**

**ITA No. 181/Ahd/2024
Assessment Year 2011-12**

Padmaben Indravadan Parmar, 55/1315 Meghaninagar, Chamanpura Asarwa, Ahmedabad-380016 PAN: BIQPP9308F (Appellant)	Vs	The ITO, Ward-6(1)(1) Ahmedabad (Respondent)
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**Assessee by: Shri Kushal Fofaria, A.R.
Revenue by: Shri V.K. Mangla, Sr. D.R.**

Date of hearing : 14-10-2024
Date of pronouncement : 28-10-2024

आदेश/ORDER

PER : SUCHITRA KAMBLE, JUDICIAL MEMBER:-

This is an appeal filed against the order dated 09-06-2023 passed by National Faceless Appeal Centre(NFAC), Delhi for assessment year 2011-12.

2. The grounds of appeal are as under:-

“1. The learned CIT(A) has erred in law and on facts of the case in confirming action of learned AO of reopening the assessment u/s. 147 of the Act. Under the facts and circumstances of the case, the action of reopening is without jurisdiction and is not permissible either in law or on facts.

2. The learned CIT(A) has erred in law and on facts of the case in partly confirming the addition of cash deposits in bank account to the tune of Rs. 7,05,750/-.

3. The learned CIT(A) has erred in law and on facts of the case in confirming action of the learned AO in levying interest u/s. 234A/B/C/D of the Act.

4. The Ld. CIT(A) has erred in law and on facts of the case in confirming action of the learned AO in levying penalty u/s. 271(1)(c) of the Act.

5. Both the lower authorities have 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 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 assessee did not file the return of income for assessment year 2011-12 as per observation of the Assessing Officer. The Assessing Officer observed that during the assessment year the assessee entered into substantial financial transactions and deposited cash of Rs. 12,35,500/- in her saving bank account maintained with Dena Bank. As per the

information available, the case was reopened u/s. 147 of the Act after recording reason and obtaining prior approval of the competent authority. Notice u/s. 148 of the Act dated 23-03-2018 was served to the assessee. In response to the notice u/s. 148 of the Act, the assessee did not file the return of income. Subsequently, notice u/s. 142(1) was issued on 08-05-2018 and the same was served upon the assessee. Subsequently, the statutory notices were issued but the same was not responded hence show cause notice was issued on 19-10-2018. The assessee filed her return of income on 17-11-2018 declaring total income of Rs. 1,02,559/-. Notice u/s. 143(2) of the Act was issued on 28-11-2018. The assessee did not respond the same and therefore notice u/s. 133(6) of the Act was issued to the assessee for bank statement and also KYC of the opening form of the assessee. The Assessing Officer passed assessment order u/s. 144 and made addition of Rs. 12,35,500/-

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) partly allowed the appeal of the assessee.

5. The ld. A.R. submitted that there is a delay of 178 days in filing the present appeal as the email id of the assessee for correspondence purposes with the CIT(A) has entered in the appeal memo was ssshah.ca@gmail.com and all the notices were issued to the said email id. But the final order of CIT(A) dated 09-06-2023 was issued/sent to email id skpjgnr@mail.com which does not belong to the assessee. Therefore, assessee was not aware about the order of the CIT(A) and hence there was a delay of 178 days in filing the present appeal. Besides this, the ld. A.R. submitted that the

assessee has filed an application for additional evidences as the CIT(A) has rejected the source of response from certain persons which was furnished during the assessment proceedings and the same are crucial in respect of loan confirmations from such persons. Therefore, the Id. AR. submitted that the matter may be remanded back to the CIT(A) for proper adjudication of the issues on merits and the assessee be given opportunity of hearing.

6. The Id. D.R. submitted that there is one year lapse for presenting the evidences before the lower authorities and therefore, the CIT(A) has rightly taken cognizance and decided the issues partly in favour of the assessee. The Id. D.R. relied upon the order of the CIT(A).

7. We have heard both the parties and perused all the relevant materials available on record. It is pertinent to note that the Assessing Officer or the CIT(A) has not disputed the source but the confirmation related to confirmed addition of Rs. 7,05,750/- along with the other details such as the affidavit of these parties are required to be taken while adjudicating the matter and therefore the matter is remanded back to the file of CIT(A) for proper adjudication of the issues on merit after cognizance of the additional evidences. The CIT(A) is directed to decide the matter in consonance thereto as per income tax statute. Needless to say, the assessee be given opportunity of hearing by following principles of natural justice. The reason given for the delay in filing present appeal before the Tribunal appears to be genuine, hence the delay is condoned.

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

Order pronounced in the open court on 28-10-2024

Sd/-
(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER
Ahmedabad : Dated 28/10/2024

Sd/-
(SUCHITRA KAMBLE)
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