

THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH

Before: Dr. BRR Kumar, Vice President

ITA No. 1511/Ahd/2024
Assessment Year 2012-13

Alkeshbhai Bhogibhai Shah, 1 st Floor LK Trust Building, Revdi Bazar Road, Kalupur, Ahmedabad-380002 PAN: AEXPB2392H (Appellant)	Vs	The ITO, Ward-1(2)(1), Ahmedabad (Respondent)
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Assessee by: Shri Jaimin Shah, A.R.
Revenue by: Shri Ketan Gajjar, Sr. D.R.

Date of hearing : 13-11-2024
Date of pronouncement : 13-11-2024

आदेश/ORDER

This is an appeal filed by the assessee against the order of the Id. Commissioner of Income Tax, CIT(A), National Faceless Appeal Centre, Delhi, in proceeding u/s. 250 vide order dated 25/06/2024 passed for the assessment year 2012-13.

2. The grounds of appeal taken by the assessee are as under:-

"1. That the Ld. CIT(A), NFAC has erred both in law and on facts while sustaining the addition made by Ld. A.O of Rs 22,61,755/- and therefore it requires to be deleted.

2. The Ld Commissioner of Income(Appeals), NFAC has not considered the reply file by the appellant on 16/03/2023 and therefore the order itself is bad in law and require to be quashed.

3. That the Ld. CIT(A) has asked for remand report from ITO, Ward 1(2)(1), Ahmedabad u/s 250(4) of the Income Tax Act, 1961. However without issue of remand report the order passed u/s 250 of the Income Tax Act, 1961 is against the Income Tax Act and against the principal of natural justice, and as such the order passed by CIT(A) is not tenable in law and required to be quashed.

4. That the notice u/s 148 was issued without recording reasons and without taking any approval u/s 151 of the I.T. Act, 1961 as such the notice issued u/s 148 is bad in law and illegal.

5. That the notice u/s 148 was issued without considering the reply filled by the appellant u/s 133(6) of the IT Act, 1961 and as such re-opening u/s 148 of the I.T. Act, 1961 is without jurisdiction and on vague reasons. And therefore the notice issued u/s 148 required to be quashed.

6. Notice u/s 148 of the I.T. Act, 1961 is not properly served on the assessee and as such re-assessment itself is bad in law and required to be quashed.

7. That the appellant has explained the source of investment made in shares of Rs 16,75,349/- and Investment made of Rs 5,00,000/- in NHAI Bonds, however without appreciating the facts and reply filed by the appellant u/s 133(6), addition made by the A O and sustained by the CIT(A) is against the facts on record and require to be deleted.

8. That the learned CIT(A) and Ld A.O has not properly appreciated the facts and circumstances of the case of the appellant further appellant has not concealed any income which is chargeable to tax and as such the penalty proceedings initiated u/s 271(1) (c) of the IT Act 1961 is bad in law and require to be drop.

9. That the appellant has neither committed default of Sec 210 nor any default of advance payment of taxes and therefore unwanted interest charged u/s 234A 234B and 234C requires to be deleted.

10. Your appellant craves leave to add, amend, deleted or alter any of the grounds till the appeal is finally heard and decided.”

3. At the outset, the ld. counsel for the assessee submitted that the family of the assessee was in the textile business which has been hence closed and the assessee had invested in shares from the current account of the proprietary concern of his brother. The details have been duly submitted before the Assessing Officer who has not considered the submissions given by the assessee. When the matter was remanded to the Assessing Officer by the ld. CIT(A), the Assessing Officer has not furnished any remand report and pending filing of the remand report, the ld. CIT(A) has passed the order u/s. 250 of the Act on 25-06-2024. It was prayed that the act of the ld. CIT(A) completing the proceedings even without receiving the remand report on the submissions given by the assessee is bad in law and requested that the matter needs to be examined by the ld. CIT(A). The ld. D.R. submitted that since the matter needs to be examined by the Assessing Officer, in the fitness of things, the matter should be referred to the Assessing Officer not to the ld. CIT(A). The proposal of the ld. D.R. appears to be justifiable and hence in the interest of justice, we remand the matter to Assessing Officer to pass

order de-novo and pass an order after affording an opportunity of being heard to the assessee.

4. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 13-11-2024

Sd/-
(DR. BRR KUMAR)
VICE PRESIDENT

Ahmedabad : Dated 13/11/2024

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