

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ SMC, अहमदाबाद ।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
"SMC" BENCH, AHMEDABAD

BEFORE DR. BRR KUMAR, VICE PRESIDENT  
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

आयकर अपील सं./ITA No.1296/Ahd/2024  
निर्धारण वर्ष /Assessment Year : 2012-13

Abidbhai Umarbhai Qureshi At Basu PO: Vasu Near Adarsh Vidhyalay Ta. Vadgam, Dist.Banaskantha - 385 526 (Gujarat)	<u>बनाम/</u> <u>v/s.</u>	The ITO Ward-1 (previously Ward-4) Palanpur - 385 001
स्थायी लेखा सं./PAN: AAJPQ 4002 F		

(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
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Assessee by :	Shri Samir Vora, AR
Revenue by :	Shri C Dharani Nath, Sr.DR

सुनवाई की तारीख/Date of Hearing : 18/11/2024  
घोषणा की तारीख /Date of Pronouncement: 22/11/2024

आदेश/O R D E R

PER DR. BRR KUMAR, VICE PRESIDENT

This is an appeal filed by the assessee against the order of the Ld.Commissioner of Income Tax (Appeals) [CITA] , National Faceless Appeal Centre, Delhi in proceeding u/s.250 of the Income Tax Act, 1961 vide order dated 16/05/2024 passed for the Assessment Year (AY) 2012-13.

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

[1] The Ld. CIT(A) was grievously erred in upholding the addition made by the Ld. A.O. of Rs. 31.65,100/- being cash payment disallowed u/s. 40A(3) of the IT Act, without looking to Rule 6DD which is illegal and bad in law.

[2] *The Ld. CIT(A) was grievously erred in upholding the addition made by the Ld. A.O. of Rs. 11,25,000/- being Transportation expenses, as the Vehicle No. GJ 15 XX 832 has come in transport business on 24.01.2013 as it has been registered on 24.01.2013, which is illegal and bad in law.*

*The appellant submits that the Ld. A.O. has taken from Investigation reply and the investigation period is between 2011-2014. But the Truck was recorded in the next year and on proportionate without verifying, the transport expenses were disallowed.*

[3] *The appellant therefore requests your Honour to kindly delete the abovementioned additions of Rs. 31,65,100/- & Rs. 11,25,000/- made by the Ld. A.O. confirmed by the Ld. CIT(A), looking to the merits of the case.*

[4] *The appellant craves the right to add, amend, alter or modify any of the grounds stated herein above either before or at the time of hearing.*

3. Brief facts of the case are that the assessee is a trader of live animals and engaged in the business of purchase and sale of buffalos and cows. The assessee did not attend for the hearing on various dates towards the notices issued by the AO which led to passing of an order dated 14/11/2019 u/s.144 r.w.s.147 of the Act. The assessee has also failed to comply with the notices issued by the Ld.CIT(A), which led to passing of an *ex-part* order rejecting the appeal of the assessee.

4. We have heard both the parties and perused the material available on record. Before us, Ld.Counsel for the assessee submitted that given opportunity due compliance would be made before the AO, where the preliminary default has occurred. It was pleaded that the assessee is an illiterate person dealing with live stock of animals and, hence not well-versed with the Income Tax procedures. On going through the record, we find that no prejudice to be caused to the Revenue. Therefore, the matter is remanded

back to the file of the AO for *De novo* assessment, after making proper verification and adjudication of the issues as per the Income Tax Act.

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

**Order pronounced in the Court on 22<sup>nd</sup> November, 2024 at Ahmedabad.**

**Sd/-  
(SUCHITRA KAMBLE)  
JUDICIALMEMBER**

**Sd/-  
( DR. BRR KUMAR )  
VICE PRESIDENT**

*टी. सी. नायर, व. नि. स. / T.C. NAIR, Sr. PS*

आदेश की प्रतिलिपि ँग्रेषित/Copy of the Order forwarded to :

1. ँपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंघित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (ंपील) / The CIT(A)-(NFAC), Delhi
5. विभागीय प्रतिनिधिआयकर ँपीलीय ँधिकरण /DR, ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार (Asstt. Registrar)  
आयकर ँपीलीय ँधिकरण, ITAT, Ahmedabad