

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.708/Ahd/2024
निर्धारण वर्ष / Assessment Year : 2016-17

Chiragbhai Jadurai Patel C/o. M.S. Chhajed & Co., CA, "Kamal Shanti" Nr.Sardar patel Statue, Ahmedabad - 380 014 (Gujarat)	<u>बनाम/</u> <u>v/s.</u>	The ITO Ward-1(2)(1) Ahmedabad - 380 015
स्थायी लेखा सं./PAN: AHFPP 9617 E		

(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
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Assessee by :	Shri Mahesh Chhajed, 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/ORDER

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 06/03/2024 passed for the Assessment Year (AY) 2016-17.

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

1. The order passed by the Ld. CIT (A) is against law, equity & justice.

2. *The Ld. CIT (A) has erred in law and on facts in upholding validity of reopening of assessment though Reopening of assessment is on borrowed satisfaction and without independent application of mind.*
3. *The Ld. CIT (A) has erred in law and on facts in upholding validity of reopening of assessment though the Ld. AO has assumed jurisdiction on the basis of some non specific & vague information.*
4. *The Ld. CIT (A) has erred in law and on facts in upholding validity of reopening of assessment done by the Ld. AO for cash deposit in bank accounts.*
5. *The Ld. CIT (A) has erred in law and on facts in upholding validity of reopening of assessment though Ld. CIT has granted mechanical approval u/s 151 of the Act.*
6. *The CIT(A) has erred in law and on facts in upholding addition made by the Ld. A.O. of Rs. 10,24,100/- U/S 69A r.w.s 115BBE of the Act.*
7. *The CIT (A) has erred in law and on facts in upholding the addition made by the Ld. A.O. of Rs. 6,15,642/- for credit entries through RTGS.*
8. *The appellant Craves liberty to add, amend, alter or modify all or any grounds of appeal before final appeal.*

3. The brief facts of the case are that the assessee is Restaurateur having source⁴ of income from Business and Profession and income from other sources. The assessee has filed his return of income on 13/04/2017 declaring total income of Rs.2,58,800/-. The assessment proceedings were initiated on the assessee u/s.147 of the Income Tax Act, 1961 ("the Act") and ultimately concluded in passing of the order u/s.147 r.w.s.144/144B of the Act, owing to non-filing of evidences before the Assessing Officer. The addition made by the AO has been confirmed by the Ld.CIT(A) by passing of an *ex-parte* order due to non-compliance of the notices issued to the assessee by the Ld.CIT(A).

4. We have heard both the parties and perused the material available on record. Before us, the Ld.Counsel for the assessee has fairly agreed to pay an amount of Rs.5,000/- towards the cost, which shall be deposited in the Prime Minister's National Relief Fund and the copy of proof to the AO, who shall issue the notice to the assessee and pass an assessment order *De novo*. The amount to be deposited within a period of two weeks from the receipt of this order. Thus, the matter is remanded back to the file of the AO for proper verification and adjudication of the issues as per the Income Tax Statute. Needless to say, the assessee be given proper opportunity of hearing in the interest of natural justice. It is further directed that the assessee will take utmost care, who appear before the AO and fully co-operate with the assessment proceedings. Otherwise, the AO is at liberty to take appropriate action and adjudicate the matter as per law.

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

Order pronounced in the Court on 22nd November, 2024 at Ahmedabad.

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

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

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