

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AHMEDABAD**

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

I.T.A. No.1262/Ahd/2024
(Assessment Year: 2014-15)

Ashokbhai Shankerlal Shah, I, 7 th Floor Sumeru Centre, Near Parimal Crossing, C GRoad, Ahmedabad-380007	Vs.	Income Tax Officer, Ward 1(2)(1), Ahmedabad
[PAN No.ADZPS9515J]		
(Appellant)	..	(Respondent)

Appellant by :	Shri S N Divatia, A.R.
Respondent by:	Shri C Dharani Nath, Sr. DR

Date of Hearing	20.11.2024
Date of Pronouncement	22.11.2024

ORDER

PER: DR. BRR KUMAR, VICE PRESIDENT:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, vide order dated 20.05.2024 passed for the Assessment Year 2014-15.

2. The Assessee has taken the following grounds of appeal:-

[1] The Ld. CIT (A) has grievously erred in upholding the addition made by the Ld. A.O. of Rs. 27,61,030/- being the capital gain of Rs. 27,61,030/- incurred in the script M/s Looks Health Services Limited and 6% commission u/s 69C is Rs. 1,65,662/- is incorrect.

The appellant has not been provided enough opportunity as a time of 2 days was given and the date provided by the Ld. A.O. is the national holiday or even the adjournment not taken up and so the order passed u/s 147 r.w.s 144B is incorrect.

[2] The Ld. A.O puts the observation of the counter parties transactions but in the list no name of the appellant provided and so the assessment finalized with borrowed satisfaction and even not applying his mind and found any documentary evidence.

[3] The Ld. A.O. has made an addition on account of the unexplained investment as the share are sold through d-mat account and all necessary details are provided and so there is no question of unexplained.

[4] That having regard to the facts and circumstances of the case, the Ld. Assessing Officer has erred both on facts and in law in deciding the assessment ex parte in violation of the principles of natural justice and without granting to the appellant a fair, proper and meaningful opportunity and the findings of the Ld. Assessing Officer that the appellant is not serious and sincere to pursue the case is wholly incorrect.

[5] That the Ld. Assessing Officer has misdirected himself in law in initiating penalty under section 271(1)(c) on amount Rs. 29,26,692/- and his order is thus prima facie devoid of merits and contrary to law and needs to be quashed and prayed for accordingly and the interest u/s 234A and 234B is not legal.

[6] The appellant therefore requests your good self to kindly delete the above-mentioned additions of Rs 29,26,692/- made by the Ld. A. O. looking to the merits of the case.

[7] 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. At the outset, both the parties fairly submitted that the issue taken up by the assessee in the appeal before us has been squarely covered by the order of the Tribunal in ITA No.417/Ahd/2019 dated 08.12.2023.

4. We have gone through it and find that the submission of both the parties are tenable. For the sake of ready reference [please press here](#). (hyperlink provided)

- 3-

5. In the absence of any change in factual matrix and legal proposition brought to our notice, the appeal of the assessee is hereby allowed.

6. In the result, the appeal of the assessee is allowed.

This Order pronounced in Open Court on 22.11.2024

**Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

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

(True Copy)

Ahmedabad; Dated 22.11.2024

Manish, Sr. PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad