

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

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

I.T.A. Nos.778 to 780/Ahd/2024
(Assessment Years: 2007-08 to 2009-10)

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| Ashadeep Industries, 31, GIDC, Chanasma, Chanasma, Dist. Patan, Patan-384220 | Vs. | Income Tax Officer, Ward-3, Patan. |
| [PAN No.AAKFA8566F] | | |
| (Appellant) | .. | (Respondent) |

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| Appellant by : | Shri K C Thaker, A.R. |
| Respondent by: | Shri C Dharani Nath, Sr. DR |

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| Date of Hearing | 20.11.2024 |
| Date of Pronouncement | 22.11.2024 |

ORDER

PER: DR. BRR KUMAR, VICE PRESIDENT:

These appeals have been filed by the Assessee against the separate order passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, vide order dated 20.02.2024 passed for the Assessment Years (2007-08 to 2009-10). Since the issue involved in all the three appeal are common we extract the grounds of appeal raised in **ITA No.778/Ahd/2024 for AY 2007-08.**

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

1. *The learned CIT (A) has erred in law and on facts in confirming the penalty u/s 271(1) (c) of the Act without considering merits of the facts and circumstances of the case emerging from the record before him and in particular the submissions reproduced in the order imposing penalty passed by the AO and also in the impugned appellate order.*

2. *CIT (A) has also incorrectly mentioned that the notice of hearing dt.08-02-2024 was not complied with. As a matter of fact the notice was issued after three years and which reached the AR the next day. being Friday and compliance was due on Monday. 12-02-2024. Since time for compliance was too short, application for adjournment was uploaded on 12-02-2024 seeking time up to 27-02-2024. The CIT (A), without informing the appellant the fate of his application proceeded to pass the appellate order.*
3. *On the facts and in the circumstances of the case and in law the learned CIT (A) ought to have cancelled the order u/s. 271(1)(c) imposing penalty of Rs.9,15,100/- passed by the AO.*
4. *It is therefore prayed that the orders of the lower authorities imposing and confirming the penalty imposed u/s. 271(1) (c) of the Act may be cancelled.*

3. The pertinent facts required for adjudication of the case are that the Ld.CIT(A) has issued notice of hearing on 08.02.2024 to comply by 12.02.2024. Due to paucity of time for compliance the assessee sought adjournment of the hearing to 27.02.2024. However, the Ld.CIT(A) passed the order on 20.02.2024 without considering the adjournment application of the assessee. It was argued that it is a case of denial of justice and opportunity of being heard and violation of principles of natural justice. The Ld.Counsel prayed that given an opportunity, due compliance will be made before the Ld.CIT(A). The ld. DR fairly accepted the proposal. We find that no prejudice will be cause to the revenue if an opportunity of being heard is given to the assessee to file their submission. Hence, the matter is remanded to the Ld.CIT(A) to pass the order afresh after due issue of notice to the assessee. The assessee shall comply to the notices issued by the Ld.CIT(A) without seeking unnecessary adjournments.

4. In the result, the appeals of the assessee are allowed for statistical purposes.

This Order pronounced in Open Court on 22.11.2024

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

(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