

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'B अहमदाबाद  
IN THE INCOME TAX APPELLATE TRIBUNAL  
"B" BENCH, AHMEDABAD

BEFORE SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER  
AND  
SHRI PAWAN SINGH, JUDICIAL MEMBER

ITA No.172/Ahd/2023  
Assessment Year : 2016-17

M/s.Kamlesh Babalal Shah 430, Panchratna Opera House, Charni Road Mumbai PAN : AFXPS 4908 R	Vs	ACIT Circle Palanpur Palanpur.
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(Applicant)		(Responent)
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Assessee by :	Shri Amit Jhaveri, CA
Revenue by :	Shri Ashok Kumar Suthar, Sr.DR

सुनवाई की तारीख/Date of Hearing : 14/11/2024  
घोषणा की तारीख /Date of Pronouncement: 27/11/2024

**आदेश/ORDER**

**PER ANNAPURNA GUPTA, ACCOUNTANT MEMBER**

The above appeal has been filed by the assessee against order passed by the Ld.Commissioner of Income-Tax(Appeals), Delhi National Faceless Appeal Centre (NFAC) [hereinafter referred to as "ld.CIT(A)] dated 7.2.2023 under section 250 of the Income Tax Act, 1961 ("the Act" for short) pertaining to Assessment Year 2016-17.

2. The grounds raised by the assessee in the appeal read as under:

**STATEMENTS OF FACTS:**

1. The Ld. CIT(A), NFAC, Delhi issued notice for hearing on 02.01.2023 and 21.01.2023 on portal.
2. The Assessee has changed the consultant for his income tax compliances and Audit. So there was confusion between two Authorised Persons and there was non attendance in appeal proceedings.

3. *The non attendance in appeal proceedings is neither negligence nor intentional on the part of the assessee.*

4. *There was neither any litigation nor any dues are pending as on the date. The appellant is very punctual and co-operative in legal compliances.*

**GROUND OF APPEAL:**

1. *The Ld. CIT(A), NFAC, Delhi neither given proper opportunity of hearing nor served the notice of hearing properly to the assessee. Hence, there was non attendance in Appeal Proceedings.*

2. *The Ld. CIT(A), NFAC, Delhi neither consider the grounds of appeal nor taken into account the statement of facts before dismissal of appeal.*

3. *We reserved our rights to add, amend, alter anything stated hear in above or may be stated hear in after.*

**PRAYER:**

1. *The appellant hereby prays that one more opportunity of hearing may be granted by remand back of the appeal and oblige.*

2. *The appellant hereby give assurance that they will attend the proceedings in time and cooperate in legal compliances.*

3. The main grievance of the assessee is that the ld.CIT(A) neither had given proper opportunity of hearing nor served the impugned notices for hearing to the assessee, and therefore, the *ex parte* order passed by the ld.CIT(A) being violative of principle of the nature justice, liable to be set aside, the assessee may be given further opportunity for defend its case before the first appellate authority.

4. After hearing both the sides, and perusal of the pleadings and the impugned orders of the Revenue authorities, we find that the ld.CIT(A) has disposed of the impugned order in a very cryptic manner, summarizing his findings in four lines. His order notes that three notices were issued to the assessee, all of which purportedly went un-responded, leading the ld. CIT(A) to conclude that the assessee was not interested in pursuing the appeal.

5. We observe that this approach of the Id. CIT(A) is contrary to the statutory mandate under Section 250(6) of the Income Tax Act. The said provision explicitly requires the Commissioner (Appeals) to dispose of appeals in writing by addressing the points for determination, the decision on such points, and the reasons for the decision.

6. In the present case, the Id. CIT(A) failed to consider the materials and submissions that were already on record, as filed by the assessee during the assessment proceedings before the Assessing Officer (AO). Instead, the Id. CIT(A) summarily dismissed the appeal based solely on the alleged non-response to three notices, which the assessee contends were not received.

This action, in our view, constitutes a violation of the principles of natural justice. The assessee has been in fact denied a fair opportunity to present its case during the appellate proceedings. Accordingly, we set aside the impugned order passed by the Id. CIT(A) and remand the matter to him for fresh adjudication. The Id. CIT(A) is directed to provide the assessee with a reasonable opportunity of being heard and to dispose of the appeal in accordance with the law.

It is, however, emphasized that the assessee must cooperate fully in the proceedings before the Id. CIT(A) and should refrain from seeking unwarranted adjournments.

7. In the result, the appeal of the assessee is allowed for statistical purpose.

**Order pronounced in the Court on 27<sup>th</sup> November, 2024 at Ahmedabad.**

**Sd/-  
(PAWAN SINGH)  
JUDICIAL MEMBER**

**Sd/-  
(ANNAPURNA GUPTA)  
ACCOUNTANT MEMBER**

Ahmedabad, dated 27/11/2024