

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

**BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.1514/Ahd/2024
(Assessment Year: 2017-18)

Dinesh Ramanbhai Patel, 23, Shyma Sharan Part-2, Aarohi Club Road, Bopal-Ghuma, Ahmedabad-380058	Vs.	Income Tax Officer, Ward-3(2)(1), Ahmedabad
[PAN No. BTBPP3659P]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Kushal Fofaria, A.R.
Respondent by:	Smt. Trupti Patel, Sr. DR

Date of Hearing	19.11.2024
Date of Pronouncement	27.11.2024

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Centre, (in short “NFAC”), Delhi vide order dated 11.03.2024 passed for A.Y. 2017-18.

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

“1. The Ld. CIT(A) has erred in law and on facts of the case in dismissing the appeal without appreciating the sufficient cause explained by the appellant for delay in filing the first appeal.

2. The Ld. CIT(A) has erred in law and on facts of the case in dismissing the appeal without dealing with the merits of the case as required u/s. 250(6) of the Act.

3. The assessment framed by the faceless assessing officer is illegal in absence of any intimation of transfer of the case from jurisdictional assessing officer to faceless assessing officer. The assumption of jurisdiction by the faceless assessing officer prior to e-Assessment of Income Escaping Assessment Scheme, 2022 coming into force is illegal rendering the entire assessment proceedings null and void.

4. *The Ld. AO has erred in law and on facts of the case in reopening the assessment u/s 147 of the Act. Under the facts and circumstances of the case, the action of reopening is without jurisdiction and is not permissible either in law or on facts.*

5. *The Ld. AO has erred in law and on facts of the case in making an addition of Rs. 1,55,00,000/- as unexplained investment u/s. 69 of the Act.*

6. *The Ld. AO has erred in law and on facts of the case in invoking provisions of Section 115BBE of the Act and computing the tax at the rate of 60%.*

7. *The Ld. AO has erred in law and on facts of the case in framing the assessment ex-parte in gross violation of principles of natural justice.*

8. *Both the lower authorities have passed the orders without properly appreciating the facts and they further erred in grossly ignoring various submissions, explanations and information submitted by the appellant from time to time which ought to have been considered before passing the impugned order. The action of the lower authorities is in clear breach of law and Principles of Natural Justice and therefore deserves to be quashed.*

9. *The Ld. AO has erred in law and on facts of the case in levying interest u/s. 234A/B/C/D of the Act.*

10. *The Ld. AO has erred in law and on facts of the case in initiating penalty proceedings u/s. 271AAC(1) of the Act.*

11. *The Ld. AO has erred in law and on facts of the case in initiating penalty proceedings u/s. 272A(1)(d) of the Act.*

12. *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, we observe that there is a delay of 103 days in filing of the present appeal. Before us, the assessee filed an Affidavit stating that the assessee is a farmer and is not well read and having no knowledge of operating computers or email. The assessee had engaged a Chartered Accountant to handle the appeal work, who filed the appeals before the CIT(A) against the assessment and penalty orders. It was only owing to inadvertence on the part of the Chartered Accountant of the assessee that there was a delay in filing of the present appeal. The assessee submitted he has a good case on merits and therefore, the delay in filing of the present appeal may be condoned in the interest of justice.

4. On going through the facts of the instant case and the Affidavit filed by the assessee, in the interest of justice, the delay in filing of the present appeal is hereby condoned.

5. Before us, the Counsel for the assessee submitted that main issue pertains to addition of Rs. 1,55,00,000/- as unexplained investment on account of purchase of immovable property under Section 69 of the Act. Before us, the Counsel for the assessee submitted that both the orders passed by the A.O. as well as by Ld. CIT(A) were passed ex-parte in which the assessee did not get an opportunity to present his case on merits. The Counsel for the assessee submitted that all notices of hearing were issued on the email id mentioned in the PAN of the assessee which belonged to the tax consultant of the assessee. It was submitted that the tax consultant of the assessee in response to notices issued by the AO was raising grievances on the tax portal of the assessee and the tax consultant has not responded / filed replies to the notices issued by the Department but was only raising grievances on the tax portal of the assessee. Therefore, admittedly there was inadvertent mistake on the part of the tax consultant of the assessee, who instead of filing written submissions / replies to queries made by the AO was only raising grievances on the tax portal of the assessee. In appeal against the order of the AO, the Ld. CIT(A) dismissed the appeal of the assessee without going into the merits of the case. The Counsel for the assessee submitted that the assessee is an illiterate farmer and if given an opportunity of hearing, he shall duly and promptly comply with all notices of hearing and that the assessee is in a position to explain the source of investment in the property under question.

6. Looking into the instant facts, in the interest of justice, the matter is restored to the file of the AO for de-novo consideration, after giving due

opportunity of hearing to the assessee to present it's case on merits. In case it is found that the assessee does not comply with the notices and remains non-complaint, then the AO would be at liberty to pass appropriate orders in light of the material available on record.

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

This Order pronounced in Open Court on	27/11/2024
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Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Ahmedabad; Dated 27/11/2024

TANMAY, Sr. PS

TRUE COPY

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