

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

**BEFORE DR. BRR KUMAR, VICE PRESIDENT
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.940/Ahd/2024
(Assessment Year: 2020-21)

Satishchandra Hiralal Berawala, A/8, Narayan Estate, Bharuch-392001	Vs.	Deputy Commissioner of Income Tax, Circle 2(1)(1), Vadodara.
[PAN No.ACQPB6172N]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Bhupendra Mehta, A.R.
Respondent by:	Shri B.P Srivastava, Sr. DR

Date of Hearing	25.11.2024
Date of Pronouncement	27.11.2024

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 29.03.2024 passed for the Assessment Year 2020-21.

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

1. The Ld Addl. JCIT A grossly erred on facts and in law in dismissing the appeal without adjudicating the preliminary issue raised regarding the violation of statutory provision of Sec 143(1)(a) of the Income tax Act 1961 the Act in the form of non-issue and service of the notice by the AO u/s 143(1)(a) of the Act before making the adjustment of Rs. 6,50,830/-

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2. *The Ld Addl. JCIT A grossly erred on facts and in law in dismissing the appeal without adjudicating the ground regarding non speaking order of the Ld AO passed u/s. 143(1)*

3. *The Ld Addl JCIT A has grossly erred in law and is not justified in confirming the addition made by the Ld AO without deciding the involved question of law and not allowing the exemption exceeding RS 3 lakhs u/s. 10(10AA)(ii) of the Act considering the invalid Gazette Notification No 50588 E dated 31.05.2002 issued by CBDT effective 01.04.1998*

4. *The Ld Addl JCIT A grossly erred in not adjudicating the raised ground in appeal to the effect that taxed Leave Encashment amount exceeding RS 3 lakhs qualifies for relief u/s. 891 of the Act.*

5. *Your appellant craves leave to add amend alter any ground of appeal*

3. An adjustment of Rs.6,50,830/- has been made by the CPC, Bangalore u/s.143(1) of the Act. The Ld. Counsel for the assessee argued that before making adjustment u/s.143(1)(a) of the Act, no notice has been given to the assessee.

4. We have gone through the provisions of Section 143(1) of the Act which reads as under:

“...

....

Provided that no such adjustments shall be made unless an intimation is given to the assessee of such adjustments either in writing or in electronic mode...”

5. As per the provisions of the Act, an intimation has to be given to the assessee whether in writing or in electronic mode before making such adjustments. The revenue authorities have been asked in the earlier hearing

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to submit the proof of issue of notice to the assessee which the revenue authorities failed to produce. Hence, in the interest of speedy justice, the appeal of the assessee is hereby allowed, granting liberty to the Revenue to approach the Tribunal in case the right proof of issue of notice could be found.

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

This Order pronounced in Open Court on 27.11.2024

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

(True Copy)

Ahmedabad; Dated 27.11.2024

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