

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"SMC" BENCH, AHMEDABAD**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT**

I.T.A. No. 1319/Ahd/2024  
(Assessment Year: 2017-18)

Maheshkumar Kuberdas Patel 10, Gokuldharm Society, Opp. Shivdarsan Society, Naroda, Ahmedabad-382 330 PAN : ABNPP 1856 D	Vs.	Income-Tax Officer, Ward 5(3)(2), Ahmedabad
<b>(Appellant)</b>	..	<b>(Respondent)</b>

<b>Appellant by :</b>	Shri SN Divatia, AR & Shri Samir Vora, AR
<b>Respondent by:</b>	Ms. Neeju Gupta, Sr DR

<b>Date of Hearing</b>	26.11.2024
<b>Date of Pronouncement</b>	29.11.2024

**ORDER**

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred to as "CIT(A)" for short), dated 15.05.2024 passed under Section 250 of the Income-tax Act, 1961 [hereinafter referred to as "the Act" for short], for Assessment Year (AY) 2017-18.

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

*"1.1 The order passed by U/s.250 passed on 15.05.2024 by NFAC[CIT(A)], Delhi (for short "CIT(A)") upholding the addition of Rs.10,95,050/- made by A.O towards cash deposit made in Dena Bank account during FY 2016-17 as unexplained income u/s 68 rws 115BBE is wholly illegal, unlawful and against the principles of natural justice.*

*2.1 The Id. CIT(A) has grievously erred in law and or on facts in not appreciating that there could not be compliance to the notices claimed to be issued because the same were issued at the email id of the*

*accountant who had not informed or given copy of the notices in order to make due compliance. Thus, there was a sufficient cause for failure to comply with the notices claimed to be issued by CIT(A).*

*3.1 The Id. CIT(A) has grievously erred in law and or on facts in upholding the addition of Rs.10,95,050/- made by A.O. towards cash deposit made in Dena Bank account during FY 2016-17 as unexplained income u/s 68 rws 115BBE.*

*3.2 That the in the facts and circumstances of the Id. CIT(A) ought not to have upheld the addition of Rs. 10,95,050/- made by A.O towards cash deposit made in Dena Bank account during FY 2016-17 as unexplained income u/s 68 rws 115BBE.*

*3.3 The Id. CIT(A) has failed to appreciate that when the HUF of the appellant was separately assessed to tax and filing ITR which was the main source of impugned cash deposits, no addition could be made in the hands of the appellant as an individual.*

*3.4 Without prejudice to above and in the alternative the impugned addition of Rs. 10,95,050/- is highly excessive and calls for substantial reduction..”*

3. In this case, the assessment order has been passed by the ITO, Ward 5(3)(2), Ahmedabad on 15.12.2019 determining total income of Rs.16,45,030/- against the returned income of Rs.5,49,980/- on account of unexplained cash deposited in the bank account. The Id. CIT(A) has issued notices fixed for hearing on 13.01.2021, 06.04.2021, 02.01.2024, 06.01.2024 and 09.05.2024 on email given in Form No.35 which have been duly delivered. The Id. CIT(A) has passed an order *ex-parte* owing to non-compliance of the assessee before the Id. CIT(A).

4. Aggrieved with the order of the Id. CIT(A) confirming the addition made by the Assessing Officer, the assessee has filed an appeal before the Tribunal.

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5. Before us, it was submitted that the consultant, who has been in receipt of the notices, has not responded inadvertently to the said notices, which led to dismissal of the appeal and prayed that the assessee is a small employee and earned income from agricultural operations also, and pleaded to have an opportunity of being heard before the Id. CIT(A). The Id. DR fairly accepted the proposal. We find that no prejudice would be caused to the Revenue if an opportunity of being heard is given to the assessee. Hence, the matter is remanded to the Id. CIT(A), with directions to adjudicate the appeal *de novo*, after giving due opportunity of being heard to the assessee.

6. In the result, the appeal of the Assessee is allowed for statistical purposes.

**The order is pronounced in the open Court on 29.11.2024**

Sd/-

**(DR. B.R.R. KUMAR)  
VICE-PRESIDENT**

Ahmedabad; Dated 29/11/2024

*btk*

**आदेश की प्रतिलिपि □ ग्रेषित / 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,**

True Copy

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