

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

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

I.T.A. No. 1471/Ahd/2024
(Assessment Year: 2017-18)

Mrugeshbhai Ravindrabhai Desai, 307, Anand Mangal-3, Opp. Core House, Rajnagar Club Lane, Ambawadi, Ahmedabad-380006 [PAN : ACNPD 2610 G]	Vs.	DCIT Circle 2(1)(1), Vejalpur, Ahmedabad
(Appellant)	..	(Respondent)
Appellant by :	Shri Vivek Chavda, AR	
Respondent by:	Adjournment application filed	
Date of Hearing	03.12.2024	
Date of Pronouncement	03.12.2024	

ORDER

PER DR. B.R.R. 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 [NFAC], Delhi (hereinafter referred to as "CIT(A)" for short), dated 28.06.2024 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 u/s. 250 on 28.06.2024 for A.Y.2017-18 by NFAC, Delhi upholding the disallowances of Rs.10,00,000/- made by AO is wholly illegal, unlawful and against the principles of natural justice.

1.2 The Ld. CIT(A) has grievously erred in law and or on facts in not considering fully and properly the eccentric facts and evidence available with regard to the impugned additions.

1.3 The Ld. CIT(A) has grievously erred in law and on facts in not carrying out any inquiry with regard to the applicability of the provisions of Income

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tax Act and thereby violated the principle of natural justice. The appellant had specifically denied at the time of filing Form No.35 to receive the notices on Email, however, the CIT(A) has kept on sending the same on Emails rather than sending physically which could not be served to the appellant. Therefore, the appellant shall be granted opportunity to produce additional evidences.

2.1 The Ld. CIT(A) has grievously erred in law and / or on facts in upholding the initiating proceedings u/s 147.

2.2 That the Ld. CIT(A) has erred in law and on facts in upholding the invoking of the provisions of section 147 without making any inquiry before the initiation. The AO has reopened the case in mechanical manner.

2.3 The Ld. CIT(A) has failed to appreciate that the reopening u/s.147 by the Ld. AO is nothing but a rowing and fishing inquiry which is not permitted under the Act.

2.4 The Ld. CIT(A) has failed to appreciate that the Ld. AO has erred in law and / or on facts in not providing the reasons recorded to form belief u/s147.

2.5 The Ld. CIT(A) has failed to appreciate that in absence of providing the valid reasons recorded to the appellant, the proceedings initiated & concluded u/s 147 deserves to be quashed.

3.1 The Ld. CIT(A) has grievously erred in law and or on facts in upholding the disallowance of donation of Rs.10,00,000 claimed u/s 35AC.

3.2 That the Ld. CIT(A) ought not to have upheld the disallowance of donation of Rs. 10,00,000 claimed u/s 35AC.

4.1 The Ld. CIT(A) has grievously erred in law and or on facts in not granting opportunity of being heard via video conferencing.

4.2 The Ld. CIT(A) has failed to appreciate that granting opportunity of being heard via video conferencing facility is mandatory in the new regime of Faceless appeal process.”

3. The Revenue filed adjournment. On going through the record, we find that the issue pertains to donation made by the assessee to a trust namely Bharati Mahila Mandal of Rs.10,00,000/- and claiming the donation u/s 35AC of the Act. The Revenue had information that the Trust is bogus and receipts of the donation have been given by charging commission of

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2%. We also find that the assessee has not appeared before the Assessing Officer as well as before the Id. CIT(A), thus denying the benefit of the Revenue to examine the issue in detail. The Id. Counsel has been directed to pay Rs.2000/- to the "Prime Minister's National Relief Fund" which he agreed.

4. Hence, in the interest of justice, we deem it appropriate to restore the matter to the file of the Assessing Officer who shall provide the documents which are in the custody of the Department to the assessee and to pass the assessment order *de novo* after affording an opportunity of being heard to the assessee.

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

The order is dictated and pronounced in the open Court on 03.12.2024

Sd/-

Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

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

Ahmedabad; Dated 03/12/2024

btk

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,

True Copy

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