

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ, अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
" SMC " BENCH, AHMEDABAD

सुश्री सुचित्रा काम्बले, न्यायिक सदस्य
BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

आयकर अपील सं./ITA Nos. 1573, 1574, 1575 & 1576/AHD/2024
निर्धारण वर्ष/Asstt. Years: (2012-2013, 2013-14, 2016-17 & 2017-18)

Shantilal R Patel, 1, Shriji Park, Lunawada Vardhari Road, Lunawada, Panchmahal-389230. PAN: AKBPP6276G	बनाम Vs.	Income Tax Officer, Ward-1, Lunawada.
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(अपीलार्थी /Appellant)		(प्रत्यर्थी /Respondent)
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Assessee by :	Shri MK Patel, AR
Revenue by :	Shri N J Vyas, Sr.DR

सुनवाई की तारीख/Date of Hearing : 03/12/2024
घोषणा की तारीख/Date of Pronouncement: 05/12/2024

आदेश/ORDER

PER SUCHITRA KAMBLE, JM:

The captioned four appeals have been filed at the instance of the Assessee against the separate orders passed by the National Faceless Appeal Centre(NFAC)/CIT(A), arising in the matter of assessment order passed under s. 143(3) r.w.s 147 of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Years 2012-13, 2013-14, 2016-17 & 2017-18.

2. The assessee has raised the following grounds of appeal in ITA No.1573/Ahd/2024 for AY 2012-13.

1.0 The learned Commissioner of Income Tax (Appeals) NFAC erred in law and on facts has confirmed the additions of Rs.5,50,000/- made under section 69A of the Act on account of credit entries in the bank accounts treating the same as out of unexplained sources.

2.0 The learned Commissioner of Income Tax (Appeals) NFAC erred in law and on facts has confirmed the initiation of penalty under section 271(1)(c) of the Income Tax Act, 1961 for the alleged concealment and/or furnishing of inaccurate particulars of income.

3.0 The learned Commissioner of Income Tax (Appeals) NFAC has erred in law and on facts in confirming the charging of interest under section 234B, 234C etc., of the Income Tax Act, 1961.

4.0 The appellant craves leave to add to, alter, delete or modify any of the grounds of appeal either before or at the time of hearing of this appeal.

3. The assessee has raised the following grounds of appeal in ITA No.1574/Ahd/2024 for AY 2013-14.

1.0 The learned Commissioner of Income Tax (Appeals), NFAC erred in law and on facts has confirmed the additions of Rs. 16,34,126/- on account of the share of remuneration allegedly received by the appellant from the Trust viz.. Shital Education Trust, Lunawada by dismissing the appeal on the ground that no one attended the hearing.

1.1 The appellant submits that similar additions made in appellant's own case have been fully deleted by the Commissioner (Appeals) for the Asst. Year 2012-13, 2014-15, 2015-16 and 2018-19.

2.0 The learned Commissioner of Income Tax (Appeals), NFAC erred in law and on facts has dismissed the ground of penalty proceedings under section 271(1)(c) of the Income Tax Act, 1961 for the alleged concealment and/or furnishing of inaccurate particulars of income.

3.0 The learned Commissioner of Income Tax (Appeals), NFAC has erred in law and on facts has confirmed the charging interest under section 234B, 234C etc., of the Income Tax Act, 1961.

4.0 The appellant craves leave to add to, alter, delete or modify any of the grounds of appeal either before or at the time of hearing of this appeal.

4. The assessee has raised the following grounds of appeal in ITA No.1575/Ahd/2024 for AY 2016-17.

1.0 The learned Commissioner of Income Tax (Appeals), NFAC erred in law and on facts has confirmed the additions of Rs. 14,19,220/- on account of the share of remuneration allegedly received by the appellant from the Trust viz.. Shital Education Trust, Lunawada by dismissing the appeal on the ground that no one attended the hearing.

1.1 The appellant submits that similar additions made in appellant's own case have been fully deleted by the Commissioner (Appeals) for the Asst. Year 2012-13, 2014-15, 2015-16 and 2018-19.

2.0 The learned Commissioner of Income Tax (Appeals), NFAC erred in law and on facts has dismissed the ground of penalty proceedings under section 271AAC(1) of the Income Tax Act, 1961 for the alleged under-reporting of income

3.0 The learned Commissioner of Income Tax (Appeals), NFAC has erred in law and on facts has confirmed the charging interest under section 234B, 234C etc., of the Income Tax Act, 1961.

4.0 The appellant craves leave to add to, alter, delete or modify any of the grounds of appeal either before or at the time of hearing of this appeal.

5. The assessee has raised the following grounds of appeal in ITA No.1576/Ahd/2024 for AY 2017-18.

1.0 The learned Commissioner of Income Tax (Appeals), NFAC erred in law and on facts has confirmed the additions of Rs. 10,64,666/- on account of the share of remuneration allegedly received by the appellant from the Trust viz.. Shital Education Trust, Lunawada by dismissing the appeal on the ground that no one attended the hearing.

1.1 The appellant submits that similar additions made in appellant's own case have been fully deleted by the Commissioner (Appeals) for the Asst. Year 2012-13, 2014-15, 2015-16 and 2018-19.

2.0 The learned Commissioner of Income Tax (Appeals), NFAC erred in law and on facts has dismissed the ground of penalty proceedings under section 271AAC(1) of the Income Tax Act, 1961 for the alleged under-reporting of income.

3.0 The learned Commissioner of Income Tax (Appeals), NFAC has erred in law and on facts has confirmed the charging interest under section 234B, 234C etc., of the Income Tax Act, 1961.

4.0 The appellant craves leave to add to, alter, delete or modify any of the grounds of appeal either before or at the time of hearing of this appeal.

6. Since all the four appeals are identical, we are taking the fact of ITA No.1573/Ahd/2014 pertaining to AY 2012-13 for the purpose of adjudication. The assessee is a teacher in school in Lunawada, Gujarat and

also a Trustee in Shital Education Trust. Notice u/s.148 of the Act was issued in pursuant to the survey u/s.133A of the Act was carried on 27.02.2019 at Shital Education Trust. Therefore, notices u/s.142(1) and 143(2) of the Act, were issued. The relevant documents were called for and assessee submitted the same. The Assessing Officer has not accepted the assessee's explanation and completed the assessment u/s.143(3) r.w.s 147 of the Act by enhancing total income to Rs.28,41,590/- vide order dated 30.11.2019, thereby making addition of Rs.19,26,662/-. Regarding remuneration of shares from the Trustee, the AO also made addition of Rs.5,50,000/- u/s.69 of the Act, treated the same as cash/non-cash deposits as unexplained money.

7. Being aggrieved by the Assessment Order, the assessee filed an appeal before the Ld.CIT(A). The Ld.CIT(A) dismissed the appeal of the assessee.

8. The Ld.AR submitted that the Ld.CIT(A) has not given opportunity for furnishing proper evidences/submission and has passed the order without giving opportunity of hearing to the assessee. The Ld.AR requested that matter may remand back to the file of the Ld.CIT(A) for proper adjudication of the issues contested therein after taking cognizance of the evidences on merits.

9. The Ld.DR relied upon the assessment order and the order of the Ld.CIT(A).

10. Heard both the parties and perused the relevant materials available on records. It is pertinent to note that the Ld.CIT(A) has not taken

cognizance of the service of notices issued to the assessee and despite the submission made by the assessee on 03.06.2023, the same was also not taken into account. Therefore, it will be appropriate to remand back the matter to the file of the Ld.CIT(A) for proper adjudication of the issues after taking into account the evidences and submission of the assessee and adjudicate the same on merits. Needless to say, the assessee be given opportunity of hearing by following the principle of Natural Justice. Hence, the appeal of the assessee is partly allowed for statistical purposes.

11. As regard to the **ITA Nos.1574, 1575 & 1576/Ahd/2024 for AYs 2013-14, 2016-17 & 2017-18**, the Ld.CIT(A) has passed ex-parte order therefore these appeals are also remand back to the file of the Ld.CIT(A) for proper adjudication of the issues and verification of evidences to the file of the Ld.CIT(A) as per the Income-tax statute. Needless to say, the assessee be given opportunity of hearing by following the principle of Natural Justice. Hence, appeals of the assessee are partly allowed for statistical purposes.

12. In the result, all the four appeals filed by the assessee are partly allowed for the statistical purposes.

Order pronounced in the Open Court on 05th December, 2024 at Ahmedabad.

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

(True Copy)

अहमदाबाद/Ahmedabad, दिनांक/Dated 05/12/2024

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)-(NFAC)
5. विभागीय प्रतिनिधि, अधिकरण अपीलीय आयकर , राजकोट/DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad