

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

BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 1643/AHD/2024
निर्धारण वर्ष/Asstt. Year: 2018-2019

Atul Dave, Dave Travels, Rishi Sidhi Bungalows, Kothi Char Rasta, Vadodara-390001. PAN: ACOPD0411E	बनामVs	The Income Tax Officer, Ward-3(1)(1), Vadodara.
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(अपीलार्थी /Appellant)		(प्रत्यर्थी /Respondent)
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Assessee by :	Ms Urvashi Sodhan, AR
Revenue by :	Shri N J Vyas, Sr. DR

सुनवाई की तारीख/Date of Hearing : 05/12/2024
घोषणा की तारीख/Date of Pronouncement: 09/12/2024

आदेश/ORDER

PER SUCHITRA KAMBLE, JM:

The captioned appeal has been filed at the instance of the Assessee against the order dated 13.08.2024 passed by the National Faceless Appeal Centre(NFAC)/CIT(A), arising in the matter of assessment order passed under s. 147 r.w.s 144 of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2018-19.

2. The assessee has raised the following grounds of appeal:

1. The Ld. CIT (A) has erred in law and on facts of appellant's case in not holding that the assessment order passed U/s 147 r.w.s. 1448 of the Act is bad in law as the order passed U/s 148A(d) of the Act is not approved by the prescribed authority as per Section 151 (ii) of the Act as well as no notice U/s 143(2) of the Act was issued.

2. The Ld. CIT (A) has erred in law and on facts of the appellant's case in dismissing appeal on erroneous plea that the appellant has not submitted the grounds of appeal and statement of facts.

The Ld. CIT(A) has failed to consider that the grounds of appeal and statement of facts are filed with Form 35.

3. The Ld. CIT (A) has erred in law and on facts of the appellant's case in confirming the order of the Ld. AO of making addition of ₹ 13,00,000/- on the erroneous plea that it is unexplained cash credit u/s 68 of the Act.

4. The Ld. CIT (A) has erred in law and on facts of the appellant's case in confirming the order of the Ld. AO of making addition of 6,50,000/- on the erroneous plea that it is unexplained money U/s 69 of the Act.

5. Both the lower authorities have erred in law and on facts of the appellant's case in not appreciating the facts that sources of amount deposited is fully explained.

6. The charging income tax U/s 115BBE of the Act on addition made U/s 68 of the Act is not justified.

7. The initiation of penalty proceedings u/s 271AAC, 271DA r.w.s. 269ST of the Act is not justified.

8. 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 hearing of the appeal.

3. The assessee had made an transaction of Rs.13,00,000/- with Shri Rakesh Chandulal Choksi Prop. of M/s. Shree Sava Jewellers during the year under consideration. In the Departmental enquiries, it was found that this entity along with other was involved in bogus accommodation entities and there were huge credit and debit transaction in bank account for which no explanation was furnished. The assessee claimed that he sold car for Rs.19,50,000/- to one Shri Natubhai Kantibhai Patel, but above payment was received from the said person i.e Shri Choksi on behalf of Shri N.K Patel. The notice u/s.148 of the Act was issued on 11.04.2022 and subsequent statutory notices were also issued for which the assessee filed submission and documents. After taking the cognizance of the same the AO

made addition of Rs.13,00,000/- as unexplained cash credit u/s.68 of the Act, and addition of Rs.6,50,000/- as unexplained money u/s. 69A of the Act.

4. 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.

5. The Ld.AR submitted that the Ld.CIT(A) has dismissed the appeal of the assessee on the ground that the assessee has not submitted the grounds of appeal and statement of facts but the same was submitted on 28.02.2024 before the Ld.CIT(A), which was pointed out at page 36 of the paper book(screen shot of the attachments made to the appeal filed before CIT(A)). The Ld.AR further submitted that the matter may be remanded back to the Ld.CIT(A) for proper adjudication of the issues as the assessee had filed all the details related to sale i.e letter of transfer of car, copy of RC book, copy of RTO certificate before the AO as well as before the Ld.CIT(A).

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

7. Heard both the parties and perused the material available on record. The order of the Ld.CIT(A) has not taken cognizance of the assessee's details related to grounds of appeal as well as the paper book along with written submission and annexure (I to VII). Thus, it will be appropriate to remand back the matter to the file of the Ld.CIT(A) for proper adjudication of the issues contested by the assessee and all the contentions of the assessee be taken into account by the Ld.CIT(A) and adjudicate the same after verification of the evidences filed before the AO as well as before the

4

Ld.CIT(A), as per the Income-tax statute. Needless to say, 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.

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

Order pronounced in the Open Court on 09th December, 2024 at Ahmedabad.

**Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

(True Copy)

अहमदाबाद/Ahmedabad, दिनांक/Dated 09/12/2024

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