

THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "C" BENCH

**Before: Dr. BRR Kumar, Vice President
And Shri TR Senthil Kumar, Judicial Member**

**ITA Nos. 516 & 517/Ahd/2024
Assessment Year 2012-13 & 2013-14**

Jitendra Amrutlal Patel, 46, Dharmaraj Nagar Society, Part-2, B/H Chankyapuri, Chandlodia, Ahmedabad PAN: BPPPP3975N (Appellant)	Vs	The ITO, Ward-4(2)(2), Ahmedabad (Respondent)
---	----	---

Assessee by: None
Revenue by: Shri A.P. Singh, CIT-D.R.
Shri Rignesh Das, Sr. D.R.

Date of hearing : 10-12-2024
Date of pronouncement : 11-12-2024

आदेश/ORDER

PER : TR SENTHIL KUMAR , JUDICIAL MEMBER:-

These two appeals are filed by the assessee as against the ex-parte appellate orders both dated 30-01-2024 passed by the Commissioner of Income Tax, CIT(A), National Faceless Appeal Centre, Delhi arising out of the ex-parte re-assessment orders passed u/s. 147 r.w.s. 144 of the Income Tax Act, 1961 (hereinafter referred to as the "Act") relating to the assessment years 2012-13 & 2013-14 respectively.

2. Today is the 10th time of listing of these appeals. None appeared on behalf of the assessee. Repeated adjournment request made by the assessee by only changing the 'dates of hearing'. Further, the assessee has not authorized any representative to appear on his behalf. Even in today's letter seeking for adjournment, the assessee stated "hearing of the above referred appeals fixed for hearing before your honour on 10-12-2024, you are requested to adjourn the above referred matters and oblige. Sorry for inconvenience in the matters". Thus, the assessee has not spelt out any reason for seeking adjournment in spite of service of notices. Further, perusal of the assessment orders also make it clear the same were ex-parte before the Assessing Officer.

2.1 However, the assessee filed the statutory appeal within time before CIT(A), wherein 10 opportunities of hearings given by Id. CIT(A) against which four times adjournment sought by the assessee, but no materials or evidences filed, which resulted in passing ex-parte orders. This clearly shows that the assessee is not interested in pursuing the appeals filed before any of the Authorities. Further, there is no material placed on record except filing the grounds of appeals before us.

2.2 The facts of the case is, the assessee is an individual filed his return of income for the assessment years 2012-13 on 27-06-2012 declaring total income of Rs. 1,90,380/-. Information received from DDIT, Investigation that high value transactions of Rs. 2,93,77,960/- in the bank account of Kotak Mahindra Bank and Rs. 2,17,69,000/- in Development Credit Bank Ltd. maintained by

the assessee, which has escaped to assessment. Therefore, assessment was re-opened by issuing of notice u/s. 148 which was also not responded by filing Return of income. But, the assessee merely sought adjournment for every 10 days. No other document/information were filed by the assessee, therefore, the Assessing Officer called for information u/s 133(6) from Kotak Mahindra Bank and Development Credit Bank Ltd. and made addition of Rs. 4,64,91,160/- as unexplained income u/s. 69A of the Act and demanded tax thereon.

3. Aggrieved against the ex-parte assessment orders, the assessee properly filed appeal before the CIT(A), wherein 10 opportunities of hearing were given from 24-03-2020 to 19-01-2024. As there was no response by filing any relevant documents/evidences before the appellate authority, the appeals were dismissed for non-prosecution. Even before this Tribunal, appeals were filed within the statutory period of limitation. The assessee is not chosen to file any evidence/document in support of the grounds raised before us on the addition made u/s. 69A of the Act. But time and again repeated adjournments were sought by the assessee without assigning any valid reasons. Thus, the request of adjournment is hereby rejected. Further, in the absence of any details or evidence before us, we have no hesitation in confirming the orders passed by the lower authorities.

3.1 Further, the Hon'ble High Court of Gujarat in the case of PCIT Vs. Ashokji Chanduji Thakor in Tax Appeal No. 1160 & 1161 of 2018 dated 09-10-2018, wherein the Hon'ble High Court after

considering the Tax Appeal No. 710 of 2018 dated 2-06-2018 set aside the order passed by the Tribunal and restored the ex-parte appellate order and assessment order by observing as follows:

...Both these appeals are filed by the Revenue. Revenue has challenged the judgment of the Income Tax Appellate Tribunal, Ahmedabad [Tribunal for short dated 27th December 2017 by which the Tribunal was pleased to remand the proceedings before the CIT(A) for fresh adjudication. The Tribunal noted that despite service of notices, before CIT(A) no one appeared on behalf of the assessee. No written response was also made. Despite this, the Tribunal placed the matter back before the Ld. CIT(A) for fresh consideration.

We may notice that in case of the group of assessee, this Court in Tax Appeal No. 710 of 2018 and connected appeals, by judgment dated 27th June 2018 had reversed such a view of the Tribunal. The Court was of the opinion that the Tribunal had exercised its discretion without stating reasons.

Eventually, the Court made the following observations:

"8.0. It is required to be noted that in the present case right from very beginning i.e. assessment proceeding, assessee was non cooperative. Number of opportunities were given by the AO, however assessee did not cooperate and even did not file any reply. Therefore, considering the material on record, the AO made addition as unexplained investment. Even before the learned CIT(A) also the assessee was non cooperative. Number of opportunities were given to the assessee to represent his case, however none remained present on behalf of assessee. Thereafter, the learned CIT(A) proceeded further with the appeal ex parte and decided the appeal on merits and confirmed the order passed by the AO confirming additions of unexplained investment. Thus, even learned CIT(A) also decided the matter on merits. On going through the orders passed by the AO as well as learned CIT(A), we are of the opinion that in absence of any explanation by the assessee on the investment in question, AO was justified in making the addition of unexplained investment and thereafter learned CIT(A) was justified in confirming the same. Therefore, even the order passed by the learned CIT(A) which was on merits was not required to be interfered with by the learned CIT(A) and ought not to have been quashed and set aside without assigning any reasons. Under the circumstances, the impugned orders passed by the learned Tribunal cannot be sustained.

9.0. In view of the above and for the reasons stated above, the questions of law are answered in favour of the Revenue and against the assessee and impugned common judgment and order passed by the learned Tribunal in IT(SSJA No.117/AHD/2015 to IT(SSIA No.122/AHD/2015 is hereby quashed and set aside and the orders passed by the AO as well as learned CIT(A) are restored. All the appeals are allowed accordingly. No costs."

In the result, these Tax Appeals are also allowed.

Impugned common order of the Tribunal is set aside."

3.2 Following the above Jurisdictional High Court judgment, the ex-parte orders passed by the Ld. CIT(A) and Assessing Officer does not require any interference and the present appeals filed by the assessee are liable to be dismissed.

4. In the result, both the appeals filed by the assessee are hereby dismissed.

Order pronounced in the open court on 11-12-2024

Sd/-
(DR. BRR KUMAR)
VICE PRESIDENT
Ahmedabad : Dated 11/12/2024

Sd/-
(TR SENTHIL KUMAR)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद