

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “B” BENCH, AHMEDABAD**

**BEFORE DR. BRR KUMAR, VICE PRESIDENT &
Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA No.1516/Ahd/2024
Assessment Year: 2017-18**

Dhirubhai Babubhai Modi, Bihar Bag, 18, Neminath Nagar, Palanpur H.O., Palanpur, Banaskantha – 385 001 (Gujarat) [PAN – AFBPM 6198 K]	Vs.	The ACIT, Circle, Gandhinagar.
(Appellant)		(Respondent)
Assessee by	Ms. Khushboo Shah	
Revenue by	Smt. Mamta Singh, Sr. DR	
Date of Hearing	20.11.2024	
Date of Pronouncement	11.12.2024	

ORDER

PER SUCHITRA KAMBLE, JUDICIAL MEMBER:

This appeal is filed by the Assessee against order dated 24.06.2024 passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year 2017-18.

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

- “1. *On the facts and circumstances of the case as well as law on the subject, the learned assessing officer has erred in reassessing the Assessee's income, when the learned assessing officer has already reviewed and confirmed the said transaction at the time of original assessment.*
2. *On the facts and circumstances of the case as well as law on the subject, the learned assessing officer has erred in making assessment u/s. 147 of the Act without first passing order u/s.148A(d) of the Act.*

3. *On the facts and circumstances of the case as well as law on the subject, the learned assessing officer has erred in adding the duly explained receipts shown in income side of Profit and Loss u/s. 68 of the Act.*
4. *On the facts and circumstances of the case as well as law on the subject, the learned assessing officer has erred in making addition of Rs.1,41,60,000/- u/s. 68 of the Act, without determining the basis of the aforesaid amount and providing a reasonable basis for its determination.*
5. *On the facts and circumstances of the case as well as law on the subject, the learned assessing officer has erred in making addition of Rs.1,41,60,000/- u/s. 68 of the Act, when the entire transaction is duly explained to the learned Assessing Officer.*
6. *On the facts and circumstances of the case as well as law on the subject, the learned assessing officer has erred in taxing the alleged addition of share transactions u/s. 115BBE of the Act, when the appellant is engaged in business of share trading.*
7. *On the facts and circumstances of the case as well as law on the subject, the learned assessing officer has erred by invoking penalty proceedings under section 271AAC of the Act, as the appellant has already reported the loss on underlying transaction in its original return of income filed.*
8. *On the facts and circumstances of the case as well as law on the subject, the learned assessing officer has erred in making addition of Rs.1,41,60,000/- and therefore the appellant prays that the above demand raised. for the relevant assessment year may be directed to be deleted.*
9. *Without prejudice to the above grounds, the appellant would like to draw your attention to the fact that the order passed by the learned CIT(A) is an order passed based on the available records without any submission made from the appellant. Thereby, the appellant requests you to please set aside and remand the appeal back to the learned CIT(A)*
10. *The appellant craves leave to add, alter, modify or delete any or all the grounds of appeal during the appeal proceedings.”*

3. The assessee is an individual and filed his original return of income on 31.10.2017 declaring total income of Rs. (-) 44,76,902/-. Subsequently, scrutiny assessment under Section 143 (3) of the Income Tax Act, 1961 was completed on 20.12.2019 assessing the income of Rs.2,30,000/- and allowing the loss for carry forwarding Rs.44,76,902/- thereby making addition under Section 68 of the Act amounting to Rs.1,41,60,000/- regarding bogus share transaction of Stampede Capital Limited. Subsequently, assessment was completed under Section 147 read with Section 144B of the Act and Assessment Order was passed on 05.05,2023

thereby determining income of Rs.96,83,098/- by making addition of Rs.1,41,60,000/- on account of unexplained income under Section 68 of the Act.

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

5. The Ld. AR submitted that the matter is decided ex-parte and hence it may be remanded back to the file of the CIT(A) for proper adjudication of the issues on merit.

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

7. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that the CIT(A) has passed ex-parte order without giving opportunity of hearing to the assessee and hence it will be appropriate to remand back this matter to the file of the CIT(A) for proper verification of the details filed by the assessee and adjudicate the same on merit as per the Income Tax Statute. Needless to say, the assessee be given opportunity of hearing by following the principles of natural justice.

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

Order pronounced in the open Court on this 11th December, 2024.

Sd/-
(DR. BRR KUMAR)
Vice President

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 11th December, 2024

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Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

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Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad