

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "C" BENCH

**Before: Shri T.R. Senthil Kumar, Judicial Member
And Shri Narendra Prasad Sinha, Accountant Member**

**ITA No. 954/Ahd/2024
Assessment Year 2011-12**

Yunusbhai Ibrahimhai Patel 24-A, Ayesha Park, Tandalja Road, Vadodara-390020 PAN: AJFPP8836M (Appellant)	Vs	Income Tax Officer Ward-1(2)(2), Vadodara (Respondent)
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**Assessee Represented: Shri Hemant Suthar, A.R.
Revenue Represented: Shri Rignesh Das, Sr.D.R.**

Date of hearing : 18-12-2024
Date of pronouncement : 20-12-2024

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against the appellate order dated 14.03.2024 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), arising out of the reassessment order passed under section 144 r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2011-12.

2. At the outset, the appeal of the assessee was dismissed by Ld. CIT(A) for non-payment of admitted tax u/s. 249(4)(b) of the Act.

3. Ld. Counsel for the assessee submitted that the assessee is 1/3rd Co-owner of the property against which the admitted tax liability is Rs.4,21,401/-. However the assessee paid the tax Rs. 4,22,000/- only on 21-10-2024 thereby requested that the appeal filed before Ld. CIT(A) be taken on record and decide on merits of the case.

3.1. In this connection, assessee relied upon Kerala High Court Judgment in the case of Alka Ventures (P.) Ltd. Vs. ACIT reported in (2024) 161 taxmann.com 701 wherein it was held as follows:

“Section 249 of the Income-tax Act, 1961 Commissioner (Appeals) Form of appeal and limitation (Power to dispense with or reduce amount of security, etc.) Assessment year 2016-17-Assessee-company, engaged in real estate business, did not file return for relevant year As there were some transactions of purchase and sale of immovable property in that assessment year, proceedings were finalized against assessee holding that there was unexplained investment under section 69 and certain amount in crores was demanded from assessee - Assessee filed an appeal before authority under Faceless Appeal Scheme, 2021 along with an application for stay and it was case of assessee that by virtue of provisions contained in section 249, Appellate Authority should exempt assessee from requirement of paying advance tax in cases where a return of income had not been filed by assessee - Whether since it was not in dispute that case of assessee fell under proviso section 249(4)(b), appeal filed by assessee against order of assessment could be directed to be disposed of on merits after affording an opportunity of hearing to assessee on condition that assessee remitted certain sum against demand in order of assessment Held, yes”

4. We have given our thoughtful consideration and perused the materials available on record including the admitted tax of Rs.4,22,000/- paid on 21-10-2024, which is no doubt paid by the assessee, after passing of the appellate order by Ld. CIT(A). Since the appeal was dismissed only on the ground on technicalities but

not on merits of the case, in the interest of Principle of Natural Justice, we deem it fit to set aside the matter back to the file of Ld. CIT(A), NFAC to decide the case on merits by giving proper opportunity of hearing to the assessee.

5. In the result, the appeal filed by the Assessee is allowed for statistical purpose.

Order pronounced in the open court on 20-12-2024

Sd/-
(NARENDRA PRASAD SINHA)
ACCOUNTANT MEMBER
Ahmedabad : Dated 20/12/2024

Sd/-
(T.R. 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