

आयकर अपीलीय अधिकरण, सूरत न्यायपीठ, सूरत
IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER
आयकर अपील सं./**ITA No. 1064/SRT/2024** (AY 2017-18)
(Physical court hearing)

Tirupati Enterprise 24, Centre Point, Vapi-Silvassa Road (Amla), Silvassa-396 230, Dadra and Nagar Haveli (UT) [PAN : AADFT 9754 B]	बनाम Vs	Income Tax Officer, Ward- Silvassa, Tokarkhada, Samarvarni, Silvassa, Dadra and Nagar Haveli and Daman and Diu-396 230
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से /Assessee by	Shri Bipin Jariwala, AR
राजस्व की ओर से /Revenue by	Shri Mukesh Jain- Sr-DR
सुनवाई की तारीख/Date of hearing	09.01.2025
उद्घोषणा की तारीख/Date of pronouncement	13.01.2025

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by assessee is directed against the order of National Faceless Appeal Centre, Delhi [for short to as "NFAC/Ld.CIT(A)] dated 24.12.2024 for assessment year (AY) 2017-18, which in turn arises out of assessment order passed by Assessing Officer under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') dated 28.12.2019.
2. Rival submission of both the parties heard and record perused. The Ld. Authorized Representative (Ld.AR) of the assessee submits. The Ld. AR of the assessee submits that neither Assessing Officer nor Ld. CIT(A) allowed reasonable and fair opportunities to the assessee which resulted in miscarriage of justice to assessee. The Ld. AR of the assessee submits that

Assessing Officer issued show cause notice on 26.12.2019 for proposing various additions in the assessment and sought various details, before assessee could furnish any details, the Assessing Officer passed assessment order on 28.12.2019. The AO made various additions on account of sundry creditors, *ad hoc* disallowance of various expenses, addition on account of payment of Employees' Provident Fund, addition on account of different in closing stock and addition on account of non-deduction of TDS interest paid to NBFC. The assessee filed appeal before Ld.CIT(A) in the year 2020. The Ld.CIT(A) dismissed the appeal of assessee in a non-speaking order. In para-4 of impugned order, Ld. CIT(A) recorded that assessee requested for adjournment in January, 2021 and that no other notices were complied. The Ld. AR of the assessee submits that finding of Ld.CIT(A) is contrary to the record. The assessee in response to notice dated 13.09.2024 furnished details submission along with supporting documents and further request for more time. The request of assessee for adjournment is neither allowed nor rejected. The Ld. CIT(A) confirmed the additions made by Assessing Officer in a cryptic manner without discussing merit of the case and materials available on record. The order passed by Ld. CIT(A) is not in consonance with the mandate of Section 250(6) of the Act. The Ld. AR of the assessee submits that both the lower authorities have passed the order for want of evidence. Therefore, in the interest of justice the matter may be restored back to the file of Assessing Officer instead of CIT(A), to avoid long drawn process of remand report before Ld.CIT(A). The Ld. AR of the assessee undertakes on behalf of assessee to be

more vigilant and making timely compliance before lower authorities as and when called for.

3. On the other hand, Ld. Sr-DR for the Revenue supported the order of lower authorities. Ld. Sr-DR for the Revenue submits that Assessing Officer has given several notices which were not complied by the assessee. The AO in para-2 of his order has recorded that notice dated 24.07.2019 was also served on the assessee and that certain details were required from the assessee. So, the cause notice dated 26.12.2019, was not the only notice served on the assessee. The assessee furnished part reply in response to such notice. The Ld. Sr-DR for the Revenue submits that in case Bench is of the view that assessee deserves any further opportunity, the mater may be restored back to the file of Ld.CIT(A) with the direction to assessee to make timely compliance as and when called for.
4. We have considered the rival submissions of both the parties and have gone through order of lower authorities carefully. On perusal of record, we find that assessee was given show cause notice on 26.12.2019 for seeking numerous details, though the assessee furnished certain details vide reply dated 27.12.2019. We further find that Assessing Officer passed assessment order on 28.12.2019. No doubt, in the show cause notice dated 24.07.2019 was served on the assessee, however, the details required in such notice was furnished by the assessee, as evident from para-2 of assessment order. The Ld. CIT(A) confirmed the action of Assessing Officer in *ex parte* order without discussing the merit of the case. We find that it is not a case of non-compliance before Ld.CIT(A) rather the assessee sought adjournment in response to notice

dated 13.09.2024 by furnishing certain details, the Ld. CIT(A) neither considered such details available on record nor allowed further opportunity to assessee. Considering overall facts and circumstances of the case that majority of additions made in the assessment order for want of proper explanation by assessee. Therefore, we set aside the order of Ld.CIT(A) and deem it proper to restore the matter back to the file of Assessing Officer to adjudicate the issues afresh in accordance with law. Needless to direct Assessing Officer before passing the order afresh, the Assessing Officer shall give reasonable opportunity of being heard to assessee and to file requisite as required and explanation and evidence as and when called for. In the result, the grounds of appeal raised by the assessee is allowed for statistical purposes.

5. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 13/01/2025.

Sd/-
(BIJAYANANDA PRUSETH)
लेखा सदस्य/Accountant Member

Sd/-
(PAWAN SINGH)
न्यायिक सदस्य/Judicial Member

सूरत / Surat Dated: 13/01/2025

Dkp Outsourcing Sr.P.S*

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, सूरत/ DR, ITAT, SURAT
- गार्ड फाईल/ Guard File

// True Copy //

By order/आदेश से,

सहायक पंजीकार
आयकर अपीलीय अधिकरण, सूरत