

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

**BEFORE SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER &
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No. 1104/Ahd/2024

(निर्धारण वर्ष / Assessment Year : 2012-13)

Vijaybhai Patel 1-25 Station Vistar, At and PO: Bhilapur, Ta: Dabhoi, Vadodara - 391107	बनाम/ Vs.	Income Tax Officer Ward 1(3)(3), Vadodara
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : BLAPP8447A		
(Appellant)	..	(Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Hardik Vora, A.R.
प्रत्यर्थी की ओर से/Respondent by :	Shri Rignesh Das, Sr. DR

Date of Hearing	27/11/2024
Date of Pronouncement	05/12/2024

ORDER

PER SHRI NARENDRA PRASAD SINHA, AM:

This appeal is filed by the assessee against the order of the National Faceless Appeal Centre (NFAC), Delhi, (in short ‘the CIT(A)’), dated 26.03.2024 for the Assessment Year 2012-13.

2. The brief facts of the case are that the assessee did not file his return of income for A.Y.2012-13. The AO had received an information that the assessee had made cash deposit of Rs.91,71,500/- in his bank account with Bank of Baroda. Therefore, the case was reopened under Section 147 of the Income Tax Act, 1961 (in short ‘the Act’). In the course of assessment proceedings, the AO was not satisfied with the explanation of the assessee regarding the source of this cash deposit. Therefore, an addition of Rs.91,71,500/- was made in

respect of unexplained cash deposits. Further, the agricultural income of Rs.6,70,465/- was also added to income in the absence of any details regarding land holding as well as agricultural activities. The assessment was completed u/s.143(3) r.w.s. 147 of the Act on 01.03.2016 at total income of Rs.98,88,751/-.

3. Aggrieved with the order of the AO, the assessee had filed an appeal before the First Appellate Authority, which was decided vide the impugned order and the appeal of the assessee was dismissed.

4. The assessee is now in 2nd appeal before us. The following grounds have been taken in this appeal:

- “1. On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in passing order without discussing grounds on merits.
2. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income-Tax (Appeals) has erred in passing order without providing enough opportunities to represent the case of the assessee.
3. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income-Tax (Appeals) has erred in passing order without considering that assessee was unaware about the hearing notices.
4. On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in confirming initiation of re-assessment proceedings.
5. On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in confirming the addition of Rs. 91,71,500/- on account of cash deposited in bank account without considering that the same was out of advance received for sale of land.
6. On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in confirming the addition of Rs.6,70,465/- on account of unexplained agriculture income.
7. It is therefore prayed that the above addition/disallowance made by the assessing officer may please be deleted.”

5. Shri Hardik Vora, Ld. AR appearing for the assessee submitted that the Ld. CIT(A) had passed the order without allowing any opportunity to the assessee to represent his case. He, therefore, requested that the matter may be set aside to the file of the Ld. CIT(A) with a direction to allow an opportunity to the assessee and thereafter to decide the matter on merits.

6. Sh. Rignesh Das, Ld. Sr. DR submitted that from the order of Ld. CIT(A) it was apparent that no opportunity was allowed to the assessee. He, therefore, had no objection if the matter was set aside to the Ld. CIT(A).

7. We have gone through the order of the Ld. CIT(A). It is found therefrom that no opportunity was allowed to the assessee by the Ld. CIT(A) (NFAC) before passing this ex-parte order. From the print out of ITB Portal brought on record also, it was evident that no hearing date was appearing therein. The Ld. Sr. DR was, therefore, directed to obtain a report from NFAC in respect of details of hearing opportunities provided by the Ld. CIT(A) to the assessee. The Ld. Sr. DR has brought on record a notice dated 19.06.2017 issued by the CIT(A), Vadodara-1. It is, thus, found that the only opportunity allowed to the assessee in this case by the Ld. CIT(A), Vadodara-1 on 19.06.2017. Thereafter, the appeal was transferred to NFAC, but no evidence of any opportunity being allowed by the Ld. CIT(A), NFAC has been brought on record. Thus, the order passed by the CIT(A) is in gross violation to the principle of natural justice. We, therefore, deem it proper to set aside the matter to the file of the Ld. CIT(A) with a direction to allow a proper opportunity of

being heard to the assessee. The appeal of the assessee is allowed for statistical purposes.

8. The disposal of appeal by NFAC without allowing any opportunity of being heard to the assessee is a matter of serious concern. **The gross violation of natural justice not only renders the order of the CIT(A) indefensible but it also consumes considerable time, energy and cost to the assessee in re-hearing the matter afresh. Therefore, a copy of this order may be forwarded to Principal CCIT, NFAC C-Block, 4th Floor, S.P. M. Civic Center, New Delhi-110001 [along with a copy of the order of CIT(A) passed in this case] with a direction to enquire as to why no opportunity of being heard was allowed to the assessee in this case. He may also be requested to issue proper guidelines to all the appellate authorities in NFAC to ensure that no such lapse occurs in any other case.**

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

This Order pronounced on 05/12/2024
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Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER
Ahmedabad; Dated 05/12/2024
S. K. SINHA

Sd/-
(NARENDRA PRASAD SINHA)
ACCOUNTANT MEMBER

True Copy

आदेश की प्रतिलिपि अद्योषित/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)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad