

**IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH, JABALPUR**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER AND
SHRI MANISH BORAD, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No. 12/Jab/2018

निर्धारण वर्ष/ Assessment Year : 2013-14

Jitesh Awadhwal, JB Colony, Bara Patthar, Seoni (MP) PAN : AOVPA 7224 D	Vs	Income Tax Officer, Seoni (MP)
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		Shri Sapan Usrethe, Adv.
Revenue by :		Shri PD Chougule, DR

सुनवाई की तारीख/Date of Hearing : 14/03/2018

घोषणा की तारीख /Date of Pronouncement: 15/03/2018

आदेश/ORDER

PER MANISH BORAD, ACCOUNTANT MEMBER:-

This appeal of assessee for Assessment Year 2013-14 is directed against the order of the CIT(A)-I, Jabalpur dated 22nd November 2017 vide appeal No.J/CIT/A-1/JBP/ITO/W/Seoni/842/2015-16, arising out of order under Section 143(3) of the Income-tax Act, 1961 (hereinafter referred to as "the Act") dated 18.02.2016 framed by the ITO, Ward-Seoni.

2. Assessee has raised following grounds of appeal:-

"1. The learned CIT (Appeal) was not justified in passing order ex parte even though AR of the appellant appeared on 13.10.2017 and submitted that deposits in bank account were made out of brokerage on purchase and sale of property.

2. The learned Commissioner of Income tax (Appeal) confirmed the finding of the assessing officer mechanically, without realizing that there were credits from sale of property and debits from purchases of property and without examining details only credits in bank account could not be added.

3. *The learned Commissioner of Income tax (Appeal) was not justified in dismissing the appeal as all the credits in bank accounts were deposits from known sources which comprises of business income, sale of land, amount deposited out of gold loan, amount received from customers, and out of withdrawal."*

3. At the outset, learned Counsel for the assessee submitted that the order passed by the learned CIT(A) is an *ex-parte* order. Further, during the course of assessment proceedings, due to unavoidable circumstances, assessee was prevented from furnishing necessary details to explain the source of alleged cash deposits in the bank account. Learned Counsel for the assessee, therefore, has requested for setting aside the issue to the file of the Assessing Officer for examining the matter afresh. Learned Departmental Representative has no objection if the issue raised in this appeal is set aside to the file of the Assessing Officer.

4. We have heard the rival contentions and perused the record placed before us. We find that the assessee's case was selected for scrutiny assessment through CASS on account of information regarding alleged cash deposits of more than Rs.10 lakhs in the bank account of the assessee. It was contended by the assessee that he is engaged in the business of real estate broker and the source of cash deposits are on account of business transactions as well as sale of property on behalf of customers. However, during the course of assessment proceedings, assessee was unable to file the relevant documents to support his contention. Learned CIT(A) passed an *ex-parte* order. We, therefore, in the given facts and circumstances of the case and in the interests of justice, deem it fit and proper to set aside all the issues raised in this appeal relating to addition of Rs.77,11,102/- made by the Assessing Officer to the file of Assessing Officer for *de novo* adjudication. We order so. Needless to mention that the Assessing Officer will provide

adequate opportunity of being heard to the assessee while re-adjudicating this matter.

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

Order pronounced in the Court on 15th March, 2018 at Jabalpur.

Sd/-

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

**(MANISH BORAD)
ACCOUNTANT MEMBER**

Jabalpur; Dated 15/03/ 2018

Bt

आदेश की प्रतिलिपि अग्रेषित/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, / DR, ITAT, Jabalpur
6. गार्ड फाइल / Guard file.

TRUE COPY

आदेशानुसार/ BY ORDER,

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