

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री विजय पाल राव, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष  
BEFORE: SHRI VIJAY PAL RAO, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA. No. 46/JP/2018  
निर्धारण वर्ष / Assessment Years : 2007-08

Shri Shanker Lal Sharma 86/167C, Pratap Nagar, Sanganer, Jaipur.	बनाम Vs.	The ITO, Ward-7(2), Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AWPPS 0114 C		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri R.S. Poonia (C.A.)  
राजस्व की ओर से / Revenue by : Shri J.C. Kulhari (JCIT)

सुनवाई की तारीख / Date of Hearing : 18/09/2018  
उदघोषणा की तारीख / Date of Pronouncement : 25/09/2018

आदेश / ORDER

PER: VIKRAM SINGH YADAV, A.M.

This is an appeal filed by the assessee against the order of Id. CIT(A)-3, Jaipur dated 31.10.2017 for the Assessment Year 2007-08 wherein the assessee has challenged the confirmation of the levy of penalty U/s 271(1)(b) of the Act.

2. During the course of hearing, the Id. AR has submitted that pursuant to the notice U/s 148 of the Act, the assessment was completed U/s 147 r/w section 144 on 26.12.2014. Thereafter, the AO

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imposed penalty U/s 271(1)(b) on 29.06.2015 for non-compliance of notices issued by him. It was submitted that the assessee came to know in June, 2015 that proceedings was undergoing against him and he contacted the department and obtained certified copy of the assessment order and the penalty order on 30.06.2015. It was further submitted that by mistake, the old address of the assessee was again mentioned while drafting the Form No. 35 even before the Id. CIT(A) and no notice was received by the assessee and the Id. CIT(A) decided the appeal of ex-parte qua the assessee. It was further submitted that the assessee was earlier residing at 27C, Pratap Nagar, Sanganer, Jaipur, however, for quite some time, the appellant is residing at 86/167, Sector-8, Pratap Nagar, Sanganer, Jaipur and in support, the assessee has submitted a copy of the ration card, Bank statement and electricity bill. It was accordingly submitted that non- attendance to the appellate proceeding before the Id. CIT(A) was on account of reasonable cause as the assessee did not receive the notice for attending the hearing. It was accordingly submitted that the matter may kindly be set aside to the file of the Id. CIT(A) for deciding the same on merits.

3. The Id. DR is heard who has not raised any specific objection regarding setting aside the matter to the file of the Id. CIT(A).

4. We have heard the rival contentions and perused the material available on record. The assessee has contended that due to change of his address, he has not received the notice as well as order has been passed by the Id. CIT(A) ex-parte qua the assessee and in support of

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change of address, he has filed certain documents which are placed on record. In the interest of justice and fair play, we set aside the matter to the file of Id. CIT(A) who shall consider these documents in support of the change of address so submitted by the assessee as well as on merits on levy of penalty u/s 271(1)(b) of the Act.

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

Order pronounced in the open Court on 25/09/2018.

Sd/-

(विजय पाल राव)  
(Vijay Pal Rao)

न्यायिक सदस्य / Judicial Member

Sd/-

(विक्रम सिंह यादव)  
(Vikram Singh Yadav)

लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 25/09/2018.

\*Santosh

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

1. अपीलार्थी / The Appellant- Shri Shanker Lal Sharma, Jaipur.
2. प्रत्यर्थी / The Respondent- ITO, Ward-7(2), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File { ITA No. 46/JP/2018 }

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar