

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCH 'B', JAIPUR

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

आयकर अपील सं./ITA No. 1268/JP/2018  
निर्धारण वर्ष/Assessment Year : 2014-15.

Smt. Rekha Bhandari, 395, Vasundhara Colony, Gopalpura Bypass, Tonk Road, Jaipur.	बनाम Vs.	The DCIT Circle-7, Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN No. ABSPB 6978 K		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri P.C. Parwal (CA)  
राजस्व की ओर से / Revenue by: Smt. Anuradha (JCIT)

सुनवाई की तारीख / Date of Hearing : 22.01.2019.  
घोषणा की तारीख / Date of Pronouncement : 23/01/2019.

आदेश / ORDER

PER VIJAY PAL RAO, JM :

This appeal by the assessee is directed against the order dated 5<sup>th</sup> September, 2018 of Id. CIT (A)-3, Jaipur for the assessment year 2014-15. The assessee has raised the following grounds :-

- " 1. The Id. CIT (A) has erred on facts and in law in deciding the appeal ex-parte without providing proper opportunity of hearing more particularly when on previous hearings, A/R of the assessee attended before CIT (A) and sought for adjournment.
2. The Id. CIT (A) has erred on facts and in law in not deciding the individual grounds of appeal on merits and upholding the order of AO.
3. The assessee craves to amend, alter and modify any of the grounds of appeal.

4. The appropriate cost be awarded to the assessee.

2. The assessee is an individual and filed her return of income on 27.11.2014. The AO while completing the assessment under section 143(3) of the IT Act made additions on account of dividend stripping on shares under section 94(7) as well as under section 14A of the IT Act. The assessee challenged the action of the AO before the Id. CIT (A), however, due to non appearance on behalf of the assessee, the Id. CIT (A) dismissed the appeal of the assessee summarily.

3. Before us, the Id. A/R of the assessee has submitted that initially the Id. A/R of the assessee attended the proceedings before the Id. CIT (A) and took adjournments. However, on the last date of hearing i.e. 4<sup>th</sup> September, 2018 he did not appear before the Id. CIT (Appeals) and the appeal of the assessee was dismissed ex parte. The Id. A/R has filed the affidavit of one Shri J.K. Singhal, CA authorized to appear before the Id. CIT (A). Thus the Id. A/R has explained the reason for non appearance that due to inadvertent and bonafide mistake he could not note down the date of hearing and, therefore, could not attend the hearing on that date. The Id. A/R has submitted that the assessee may be granted one more opportunity of hearing as the Id. CIT (A) has not discussed the issue on merits.

4. On the other hand, the Id. D/R has opposed the request of the assessee for grant of one more opportunity and submitted that the Id. CIT (A) has given more than sufficient opportunity of hearing but the assessee kept on seeking adjournments and finally nobody appeared on behalf of the assessee. She has relied upon the order of the Id. CIT (A).

5. We have considered the rival submissions as well as the relevant material on record. We find that initially the appeal of the assessee was fixed on various dates on which the Id. A/R of the assessee sought adjournments and finally when the appeal was listed for hearing on 4<sup>th</sup> September, 2018 nobody appeared on behalf of the assessee. The Id. A/R of the assessee filed the affidavit explaining the reasons that he forgot to note down the date of hearing and, therefore, he could not appear before the Id. CIT (A) on 4<sup>th</sup> September, 2018. Having considered the reasons explained by the A/R Shri J.K. Singhal, CA who was authorized to appear before the Id. CIT (A) as well as the facts and circumstances of the case that the Id. CIT (A) has dismissed the appeal of the assessee for want of any explanation and submissions on behalf of the assessee, we are of the considered opinion that in the interest of justice the assessee be given one more opportunity of hearing before the Id. CIT (A). Accordingly, the matter is set aside to the record of the Id. CIT (A) for giving one more opportunity to the assessee to present her case and then to decide the appeal on merits.

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

Order is pronounced in the open court on 23/01/2019.

Sd/-  
(विक्रम सिंह यादव)  
(VIKRAM SINGH YADAV )  
लेखा सदस्य/Accountant Member

Sd/-  
(विजय पाल राँव )  
(VIJAY PAL RAO)  
न्यायिक सदस्य/Judicial Member

Jaipur

Dated:- 23/01/2019.

Das/

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

1. The Appellant- Smt. Rekha Bhandari, Jaipur.
2. The Respondent – The DCIT, Circle-7, Jaipur.
3. The CIT(A).
4. The CIT,
5. The DR, ITAT, Jaipur
6. Guard File (ITA No. 1268/JP/2018)

आदेशानुसार / By order,

सहायक पंजीकार / Assistant. Registrar

