

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES "B", 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. 79/JP/2018  
निर्धारण वर्ष / Assessment Year :2011-12

Shri Ashok Ghiya, B-6, Hari Marg, Malviya Nagar, Jaipur.	बनाम Vs.	Income Tax Officer, Ward 6(1), Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: ABAPG 1596 Q		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Saurabh Harsh (Adv)  
राजस्व की ओर से / Revenue by : Smt. Neena Jeph (JCIT)

सुनवाई की तारीख / Date of Hearing : 25/02/2019  
उदघोषणा की तारीख / Date of Pronouncement : 25/02/2019

आदेश / ORDER

PER: VIJAY PAL RAO, J.M.

This appeal by the assessee is directed against the order dated 07/11/2017 of Id. CIT(A)-2, Jaipur. The assessee has raised following grounds of appeal:

- "1. That on the facts and in the circumstances of the case, the Id. Lower authorities grossly erred in making addition of Rs. 1,00,123/- by holding that less profit was disclosed by the assessee from its commodity trading/share trading business.*
- 2. That on the facts and in the circumstances of the case, the Id. Lower authorities grossly erred in making addition of Rs. 1,00,885/- by holding that closing stock of shares was not disclosed in the balance sheet.*

3. *That on the facts and in the circumstances of the case, the Id. lower authorities grossly erred in making addition of Rs. 10,13,000/- by holding that the cash deposited in the bank account of the assessee is unexplained cash deposit and addition u/s 68 of the Income-tax Act has been made.*
4. *The appellant craves leave to add, alter, modify or amend any ground on or before the date of hearing."*

2. At the time of hearing, the Id AR of the assessee has submitted that the Id. CIT(A) has dismissed the appeal of the assessee ex parte by rejecting the request for adjournment. He has further submitted that since the Id. counsel for the assessee was not having the necessary record to prepare the case, he applied for adjournment on 26/10/2017. However, the Id. CIT(A) rejected the request and passed the impugned ex parte order. Hence, the Id AR has pleaded that the matter may be set aside to the record of the Id. CIT(A) for granting an opportunity of hearing to the assessee.

3. On the other hand, the Id DR has vehemently opposed the prayer of the Id AR and submitted that the Id. CIT(A) has granted ten opportunities to the assessee but the assessee did not appear on any of the hearing before the Id. CIT(A). Therefore, it is a case of gross negligence and non-cooperative conduct on the part of the assessee before the Id. CIT(A). The Id. CIT(A) finally was left with no option but to pass the impugned ex parte order.

4. We have considered the rival submissions as well as relevant material on record. We note that the appeal against the assessment order was filed on 31/3/2014 and thereafter the Id. CIT(A) issued several notices of hearing of the appeal but nobody on behalf of the assessee appeared before the Id. CIT(A). The relevant details of the dates of hearing and adjournment sought by the assessee are given in para 2.1 of the Id. CIT(A)'s order, which is reproduced as under:

Date of hearing fixed	Remarks
08.01.2016	Filed adjournment letter, case adjourned to 25.01.2016
25.01.2016	Filed adjournment letter, case adjourned to 08.02.2016
08.02.2016	On AR request case adjourned to 14.03.2016
14.03.2016	Filed adjournment letter, case adjourned to 05.04.2016
05.04.2016	On AR request case adjourned to 13.05.2016
13.05.2016	None attended
26.05.2016	Filed adjournment letter, case adjourned to 20.06.2016
20.06.2016	Filed adjournment letter, case adjourned to 06.07.2016
12.12.2016	None attended
26.10.2017	Filed adjournment letter, same was rejected.

It is clear from the above details that as many as ten opportunities were granted by the Id. CIT(A) and on all ten occasions, the assessee did not come forward to argue the appeal. The Id AR of the assessee has submitted that he has sought adjournment on 26/10/2017 as certain documents required from the assessee, were not provided till that date. We find that after filing of the appeal on 31/3/2014, the assessee did not provide the relevant documents till 26/10/2017, therefore, the conduct of the assessee was non-cooperative and amounting to delaying tactics of

hearing of the appeal before the Id. CIT(A). Accordingly, having regard to the facts and circumstances of the case and taking a lenient view, we set aside the matter back to the record of the Id. CIT(A) subject to payment of cost of Rs. 5,000/- (five thousands only) with direction to grant one more opportunity to the assessee for hearing. Accordingly, the Id. CIT(A) has to adjudicate the matter afresh after granting an opportunity of hearing to the assessee.

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

Order pronounced in the open court on 25<sup>th</sup> February, 2019.

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

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

जयपुर / Jaipur  
दिनांक / Dated:- 27<sup>th</sup> February, 2019

\*Ranjan

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

1. अपीलार्थी / The Appellant- Shri Ashok Ghiya, Jaipur.
2. प्रत्यर्थी / The Respondent- The ITO, Ward 6(1), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 79/JP/2018)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar