

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES "B", JAIPUR
श्री रमेश सी शर्मा, लेखा सदस्य एवं श्री विजय पाल राव, न्यायिक सदस्य के समक्ष
BEFORE: SHRI RAMESH C SHARMA, AM & SHRI VIJAY PAL RAO, JM

आयकर अपील सं./ITA No. 229/JP/2019
निर्धारण वर्ष / Assessment Year :2008-09

M/s Rajeev Kumar & Party, Ravindra Bal Vidhya Mandir, Retwali, Kota (Raj).	बनाम Vs.	I.T.O., Ward 1(1), Kota.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAIFR 8723 K		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by: Shri C.L. Yadav (CA)
राजस्व की ओर से / Revenue by: Shri A.K. Mahla (JCIT)

सुनवाई की तारीख / Date of Hearing : 09/04/2019
उदघोषणा की तारीख / Date of Pronouncement : 10/04/2019

आदेश / ORDER

PER: R.C. SHARMA, A.M.

This is an appeal filed by the assessee against the order of Id. CIT(A), Kota dated 05/10/2018 for the A.Y. 2008-09 in the matter of order passed U/s 144 read with Section 147 of the Income Tax Act, 1961 (in short, the Act).

2. In this appeal, the assessee is aggrieved for reopening of assessment as well as for addition of Rs. 4,84,190/- on account of contract receipts.

3. At the outset, the Id AR of the assessee has contended that the notice issued by the A.O. could not be served on the assessee in so far as the assessee has closed its business and shifted to some other place, therefore, could not attend the proceeding before the A.O. He has further submitted that before the Id. CIT(A), the assessee has filed additional evidence which goes to the root of the issue for deciding the validity of the addition so made by the A.O., however, same were not considered by him.

4. On the other hand, the Id DR has relied on the orders of the authorities below.

5. We have considered the rival contentions and carefully gone through the orders of the authorities below. From the record we found that the assessee was awarded a VAT Collection Post in the district of Baran (Raj.) for mining of missionary stones and therefore the firm was formed and constituted to apply and carry on the collection on behalf of the Govt. of Raj.. The awarded contract was for a limited period and further not renewed therefore the office of the firm was closed by the assessee after completion of contract of collection of tax and so that the notices from the Department of Income-tax could not be served timely to the assessee and therefore the assessee

failed to comply the proceeding initiated. After filling of the appeal to the Id. CIT(A), Kota, the assessee approached to the Commercial Tax Department to get for copies of the of the relevant papers because of the related papers were not kept by the assessee in possession but they could not able to get the copies of the relevant papers in time. From the record we found that the assessee could not appear before the A.O. and produced the relevant documents in so far as the notice of reopening as well as notice issued U/s 142(1) of the Act was not served on the assessee. The Id. CIT(A) has also dismissed the assessee's appeal without issuing any notice. The Id. CIT(A) has also not disposed off the appeal in terms of provisions of Section 250(6) of the Act which requires that the order of the Commissioner (Appeals) should be in writing, state the points for determination, the decision thereon and the reason for the decision.

6. In view of the above facts and circumstances and keeping into account the evidences and documents so produced are relevant for deciding the issue by the A.O., in the substantial interest of justice, we restore the matter back to the file of the A.O. for deciding the issue afresh after considering the evidences so filed by the assessee. The assessee is also directed to appear before the A.O. within the period of

two months from the date of receipt of this order otherwise the A.O. shall at liberty to pass order as per material placed on the record.

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

Order pronounced in the open court on 10th April, 2019.

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

Sd/-
(रमेश सी शर्मा)
(RAMESH C SHARMA)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur
दिनांक / Dated:- 10th April, 2019

*Ranjan

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

1. अपीलार्थी / The Appellant- M/s Rajeev Kumar & Party, Kota.
2. प्रत्यर्थी / The Respondent- The I.T.O., Ward 1(1), Kota.
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. 229/JP/2019)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar