

IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH, JODHPUR

**BEFORE SHRI N.K.SAINI, VICE PRESIDENT AND
SHRI N.K. CHOUDHRY, JUDICIAL MEMBER**

ITA No.347/JODH/2018
Assessment Year: 2014-15

M/s Nityam Singh Gautam Trust, Chandra Shekhar Azad Nagar, Bhilwara-311001. Vs. Income Tax Officer Ward-4, Bhilwara

[PAN :AABTN 7771Q]
(Appellant)

(Respondent)

Appellant by : None
Respondent by : Shri P.K. Singi, Ld. DR

Date of Hearing: 30/04/2019
Date of Pronouncement: 30/04/2019

ORDER

PER N.K.CHOUDHRY

The instant appeal has been preferred by the Assessee/Appellant against the order dated 25.04.2018 impugned herein passed by the Ld. CIT(A), Ajmer u/s 250(6) of the I.T. Act (hereinafter called as the 'Act') whereby the Ld. CIT(A) affirmed the rectification application filed u/s 154 by the assessee.

2. At the outset, it is observed that the Ld. CIT(A) has decided the appeal as an *ex-parte* and in Para No.2 of its order observed as under:

"During the course of appellate proceedings, the appellant has filed written submissions in 'dak'. After going through the written submissions filed during the course of appellate proceedings and the order of the AO, the appeal is decided as under."

In the order, though it is observed by the Ld. CIT(A) that during the course of appellate proceedings, the appellant has filed the written submission in '**dak**', however from the order it does not reflect that the Ld. CIT(A) has ever fixed the appeal for any date before passing the order therefore to meet the ends of justice, we are inclined to set aside the order passed by the Ld. CIT(A) and restoring the matter back to the file of Ld. CIT(A) to decide afresh while affording reasonable and proper opportunities of being heard to the assessee.

It is also ordered that the assessee shall co-operate with the appellant proceedings and shall appear as and when required by the Ld. CIT(A) and in case of failure on its part the Ld. CIT(A) shall be at liberty to draw the adverse inference against the assessee.

3. In the result, the appeal of the Assessee stands allowed for statistical purposes.

Order pronounced in the Open Court on 30.04.2019.

Sd/-
(N.K.SAINI)
VICE PRESIDENT

Sd/-
(N.K.CHOUDHRY)
JUDICIAL MEMBER

Dated: 30/04/2019

PK/PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR