

**IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH (SMC), JODHPUR**

BEFORE SHRI N.K. SAINI, VICE PRESIDENT

ITA No. 338/Jodh/2018
(ASSESSMENT YEAR-2012-13)

M/s Manju Shree Syntex Private Limited, G-23,24m Ambaji Textile Market, Ajmer Road, Bhilwara-311001	Vs	The ITO, Ward-1, Bhilwara
(Appellant)		(Respondent)
PAN: AAECM5759M		

Revenue By	Sh. P.K. Singi, DR
Assessee By	None
Date of hearing	02.05.2019
Date of Pronouncement	07.05.2019

ORDER

This is an appeal by the assessee against the order dated 24.05.2018 of Ld. Commissioner of Income Tax (Appeals), Ajmer.

2. The only grievance of the assessee in this appeal relates to the sustenance of penalty amounting to Rs. 18,500/- levied by the Assessing Officer u/s 271 (1) c) of the Act .

3. During the course of hearing, nobody was present on behalf of the assessee neither any adjournment was sought. I, therefore, proceeded ex-parte qua the assessee.

4. Facts of the case in brief are that the assessee filed the return of income on 27.9.2012 declaring an income of Rs. 2,60,250/- . However, the Assessing Officer assessed the income at Rs. 7,99,810/- vide order dated 19.3.2015 u/s 143(3) of the Income Tax Act, 1961 (in short 'the Act'). The additions were made on account of difference in the return filed in Form No. 26AS and the amount as shown in the books of account. The Assessing Officer also levied the penalty u/s 271 (1) (c) of the Act on the income less declared by Rs. 59,262/-Accordingly, the penalty of Rs. 18,500/- was levied.

5. Being aggrieved, the assessee carried the matter to the Ld. CIT(A) who decided the appeal ex-parte by observing in para 3 of the impugned order as under:-

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

6. Now the assessee is in appeal.

7. The Ld. Sr. DR strongly supported the orders of the authorities below.

8. I have considered the submissions of the Ld. Sr. DR and perused the material available on record.

9. In the present case is it noticed that the Ld. CIT(A) nowhere mentioned that the notice for hearing was issued and served upon the assessee. It is well settled that nobody should be condemned unheard as per the maxim “*audi alteram partem*”. I, therefore, by keeping in view the principles of natural justice, deem it appropriate to set aside this case back to the file of the Id. CIT(A) to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of being heard to the assessee.

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

(Order Pronounced in the Court on 07.05.2019)

Sd/-
(N.K. SAINI)
Vice President

Dated : 07.05.2019

“आर.के.”

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. आयकरआयुक्त (अपील)/ The CIT(A)
5. विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, चण्डीगढ़/ DR, ITAT, Jodhpur
6. गार्डफाईल/ Guard File

आदेशानुसार/ By order
सहायकपंजीकार/ Assistant Registrar

