

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

BEFORE SHRI N.K. SAINI, VICE PRESIDENT

ITA No. 468/Jodh/2018
(ASSESSMENT YEAR-2015-16)

Shri Ravinder Bhootra, Mandi Chouraha, Choti Sadri Road, Nimbahera, Dist.Chittorgarh (Raj.)	Vs	The ACIT, Circle, Bhilwara
(Appellant)		(Respondent)
PAN: AAZPB8158P		

Revenue By	Sh. P.K. Singi, DR
Assessee By	Shri Sunil Porwal, CA
Date of hearing	06.05.2019
Date of Pronouncement	06.05.2019

ORDER

This is an appeal by the assessee against the order dated 18.7.2018 of Ld. Commissioner of Income Tax (Appeals), Ajmer.

2. Following grounds have been raised in this appeal:-

1. *That the Ld. CIT(A) has passed the order ex-parte is bad in law, specially when no notice served & received by undersigned.*

2. *Making addition of Rs. 13,65,412/- on basis of rent received on machinery but assessee done JCB work at party side on basis of contract.*

3. Making addition of Rs. 2,70,334/- on account rent received on machinery but during the year assessee done only Rs. 33,369/- JCB work and amount total received including last year work done.

3. Vide ground No.1, the grievance of the assessee relates to ex-parte order without serving the notice of hearing on the assessee.

4. The facts of the case in brief are that the assessee filed e-return of income in 30.3.2016 declaring an income of Rs. 15,44,270/- which was processed u/s 143(1) of the Act on the declared income. Later on, the case was selected for scrutiny. The Assessing Officer framed the assessment at an income of Rs. 33,09,281/- by making various additions.

5. Being aggrieved the assessee carried the matter to the Ld. CIT(A) who sustained the additions made by passing an ex-parte order.

6. Now the assessee is in appeal.

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

8. Nobody was present on behalf of the assessee. I have considered the submissions of Ld. Sr. DR and perused the material available on record. In the present case it is noticed that the Ld. CIT(A) passed the

impugned order ex-parte by observing in para 2 of the impugned order as under:-

"During the course of appellate proceedings, the appeal was fixed for hearing on 08.05.2018, 22.05.2018, 5.6.2018, 19.6.2018, 02.7.2018, 10.7.2018 and 18.7.2018. No one has attended on any of the dates of hearing and no written submissions has been filed. Therefore, the appeal is decided after going through the assessment order and grounds of appeal as under."

9. From the aforesaid noting of the Ld. CIT(A), it appears that few notices fixing the case for hearing were issued, however, nothing is brought on record to substantiate that the notice of hearing was 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 06.05.2019)

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

Dated : 06.05.2019
"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