

IN THE INCOME TAX APPELLATE TRIBUNAL : JODHPUR BENCH : JODHPUR

BEFORE SHRI N.K. SAINI, HON'BLE VICE-PRESIDENT (SMC)

ITA No. 21/Jodh/2019)

(A.Y. 2012-13)

ITA No. 22/Jodh/2019

(A.Y. 2014-15)

Shri Ram Kishore Jangid,
C/o. Shri Rajendra Jain, Advocate,
106, Akshay Deep Complex,
5th B Road, Sardarpura,
Jodhpur.
PAN NO. AESPJ5876R
(Appellant)

vs

DCIT, Central Circle-2,
Jodhpur.

(Respondent)

Date of hearing	:	06/05/2019
Date of pronouncement	:	06/05/2019
Assessee by	:	Anjau Tater, C.A..
Department by	:	Sh. P.K. Singi, JCIT-DR.

ORDER

These two appeals by the assessee are directed against the separate orders each dated 15.11.2018 of the CIT(A)-2, Udaipur for A.Y. 2012-13 and 2014-15 respectively.

2. **First I will deal with ITA No. 22/Jodh/2019 for A.Y. 2014-15.** The only grievance of the assessee in this appeal relates to impugned order passed by the Id. CIT(A) while sustaining addition of Rs. 14,70,000/- made by the AO u/s 69 of the I.T. Act. 1961.

3. Facts of the case in brief are that the assessee filed the return of income on 27.02.2015 declaring total income of Rs. 10,54,980/-. The AO however, framed the assessment u/s 144 of the Act by making the addition Rs. 14,70,000/- on account of deposits made in Punjab National Bank. Being aggrieved the assessee carried the matter to the Id. CIT(A) who sustained the addition by passing ex-parte order. Now the assessee is in appeal

4. The ld. counsel for the assessee submitted that no opportunity of being heard was provided by the ld. CIT(A) while sustaining the addition made by the AO. In his rival submissions the ld. DR supported the orders of the authorities below.

5. I have considered the submissions of both the parties and perused the material available on record. In present case it is noticed that the ld. CIT(A) decided the appeal ex-parte by observing in para 2 of the impugned order as under :-

“During the appellate proceedings, the assessee was allowed several opportunities of being heard, however, there was no compliance. Details of the opportunities provided are as under :-

S. No.	Date of issue Notice	Date of Hearing	Remarks
1.	04.04.2018	20.04.2018	Not attended
2.	20.04.2018	01.06.2018	Not attended
3.	13.08.2018	30.08.2018	Not attended
4.	27.09.2018	10.10.2018	Not attended
5.	02.11.2018	13.11.2018	Not attended”

6. From the aforesaid noting of the ld. CIT(A) it is noticed that although several notices were issued for hearing, however nothing is brought on record that notice of hearing were 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 ld. CIT(A) to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of being heard to the assessee.

7. **In ITA No. 21/Jodh/2019 for A.Y. 2012-13** - facts are similar as were in ITA No. 22/Jodh/2019 (supra), the only difference is that the assessment was framed by the AO u/s 143(3) of the Act. the addition was made on account of cash introduced in the cash book amounting to Rs. 25,00,000/-.The ld. CIT(A) however decided the appeal ex-parte as was done for the A.Y. 2014-15 which I have discussed in the former part of this order. Therefore, findings as given in the former part shall apply mutatis mutandis. Accordingly,

the case for the A.Y. 2012-13 is also set aside to the file of the ld. CIT(A) as was done for the A.Y. 2014-15.

8. In the result appeals of the assessee are allowed for statistical purposes.

Order pronounced in open court on 06/05/2019.

Sd/-
[N.K. SAINI]
VICE PRESIDENT

Dated : 06/05/2019.

A/N

Copy forwarded to :

1. Appellant.
2. Respondent
3. CIT
4. CIT(A)
5. DR

Assistant Registrar
ITAT, Jodhpur.