

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

**BEFORE SHRI N.K. SAINI, VICE PRESIDENT**

**ITA No. 536/Jodh/2018**  
**(ASSESSMENT YEAR-2012-13)**

Shri Bhagwan Lal Gehlot, Prop. Mewar Art Galery, Delwara House Lake, Place Road, Udaipur	Vs	The ITO, Ward-1(2) Udaipur
<b>(Appellant)</b>		<b>(Respondent)</b>
PAN: ABLPG5758R		

<b>Revenue By</b>	Sh. P.K. Singi, DR
<b>Assessee By</b>	Sh. Shrawan Gupta, Advocate
<b>Date of hearing</b>	07.05.2019
<b>Date of Pronouncement</b>	07.05.2019

**ORDER**

This is an appeal by the assessee against the order dated 20.09.2018 of the Ld. Commissioner of Income Tax (Appeals)-1, Udaipur.

2. Vide ground No.3, the grievance of the assessee relates to ex-parte order passed by the Ld. CIT(A) without providing due and reasonable opportunity of being heard.

3. Facts of the case in brief are that the assessee filed return of income on 22.8.2012 showing an income of Rs. 10,68,513/- which was

processed u/s 143(1) of the Income Tax Act, 1961 (in short 'the Act'). Subsequently, the case was selected for scrutiny. The Assessing Officer framed the assessment at an income of Rs. 12,77,980/- by making the adhoc addition of Rs. 2,25,000/- by considering the commission paid to the travel agency as excessive.

4. Being aggrieved, the assessee carried the matter to the Ld. CIT(A) who sustained the addition by passing ex-parte order. She mentioned in the impugned order that various notices of hearing were issued to the assessee, in response to which neither anybody attended nor filed any application for adjournment. The last notice was issued on 05.09.2018 for hearing on 18.9.2018. The Ld. CIT(A) dismissed the appeal of the assessee.

5. Now the assessee is in appeal.

6. The Ld. counsel for the assessee submitted that the Ld. CIT(A) had not given any opportunity of being heard to the assessee and no notice of hearing was received by the assessee.

7. In his rival submissions, the Ld. Sr.DR supported the impugned orders passed by the Ld. CIT(A).

8. I have considered the submissions of both the parties and perused the material Available on record. In the present case, it is noticed that

the Ld. CIT(A) has passed the impugned order ex-parte. She simply stated that the notices of hearing were issued to the assessee but nothing is brought on record to substantiate that the notice issued 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 ld. CIT(A) to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of being heard to the assessee.

9. 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

