

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES "A", JAIPUR
श्री रमेश सी शर्मा, लेखा सदस्य एवं श्री विजय पाल राव, न्यायिक सदस्य के समक्ष
BEFORE: SHRI RAMESH C SHARMA, AM & SHRI VIJAY PAL RAO, JM

आयकर अपील सं./ITA No. 175/JP/2019
निर्धारण वर्ष /Assessment Year :2014-15

Mahesh Chand Golecha, C-254, Bhabha Marg, Tilak Nagar, Jaipur, Rajasthan- 302004.	बनाम Vs.	I.T.O., Ward 6(1), Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: ADHPC 3950 B		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

आयकर अपील सं./ITA No. 174/JP/2019
निर्धारण वर्ष /Assessment Year :2014-15

Shashi Golecha, C-254, Bhabha Marg, Tilak Nagar, Jaipur, Rajasthan- 302004.	बनाम Vs.	I.T.O., Ward 6(1), Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: BYSPS 0711 H		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by: Shri C.L. Yadav (CA)
राजस्व की ओर से / Revenue by : Shri Rajendra Jha (Addl.CIT)

सुनवाई की तारीख / Date of Hearing : 25/04/2019
उदघोषणा की तारीख / Date of Pronouncement : 21/06/2019

आदेश / ORDER

PER: R.C. SHARMA, A.M.

Firstly we take ITA No. 175/JP/2019

This is an appeal filed by the assessee against the ex parte order of Id.CIT(A), Ajmer dated 19/11/2018 for the A.Y. 2014-15 in the matter

of imposition of penalty U/s 271B of the Income Tax Act, 1961 (in short, the Act).

2. There is delay in filing the appeal. In support of the delay, the assessee has filed application for condonation of delay. After going through the application for condonation of delay, we are satisfied that there was reasonable ground for delay in filing the appeal. Accordingly, the delay is condoned and appeal is being heard on merit.

3. We have considered the rival contention and carefully gone through the orders of the authorities below. The A.O. has levied penalty U/s 271B of the Act for not getting the books of account audited. However, the Id. CIT(A) has dismissed the assessee's appeal for non-prosecution.

3. It was the contention of the Id AR of the assessee that the assessee Shri Mahesh Chand Golecha was suffering from cancer and from August, 2018 to December, 2018, he was undergoing regular treatment at Bhagwan Mahaveer Cancer Hospital & Research Centre, Jaipur. He further contended that the notices for hearing was issued by the Id. CIT(A). However, two notices were served on the wife of the assessee after the date of hearing fixed in it. As the assessee was hospitalized he could not produce evidence in support of his claim.

However, the Id. CIT(A) has dismissed the assessee's appeal without going into merit of the penalty so levied. He dismissed the assessee's appeal for non-prosecution.

4. From the record we found that the assessee has placed on record sufficient evidence to show that he was suffering from cancer and during the relevant period when the case was fixed for hearing and the notices were issued, he was hospitalized and could not attend the hearing. In the substantial interest of justice, we set aside ex parte order of the Id. CIT(A) and the matter is restored back to the file of Ld. CIT(A) for deciding the issue afresh after giving due and reasonable opportunity of being heard to the assessee.

5. In the result, the appeal of the assessee is allowed in part for statistical purposes only.

6. **Now we take ITA No. 174/JP/2019**

This is an appeal filed by the assessee against the ex parte order of Id.CIT(A), Ajmer dated 19/11/2018 for the A.Y. 2014-15 in the matter of imposition of penalty U/s 271B of the Act.

7. In this appeal also, there is delay in filing the appeal. In support of the delay, the assessee has filed application for condonation of delay. After going through the application for condonation of delay, we are

satisfied that there was reasonable ground for delay in filing the appeal. Accordingly, the delay is condoned and appeal is being heard on merit.

8. In this appeal also, by passing ex parte order, the Id. CIT(A) dismissed the appeal of the assessee, who is wife of Shri Mahesh Chand Golecha, which we have already discussed hereinabove. As the assessee was also engaged in the hospital due to serious health problem of her husband due to which she could not attend before the Id. CIT(A). In the substantial interest of justice, we set aside ex parte order of the Id. CIT(A) and the matter is restored back to the file of Ld. CIT(A) for deciding the issue afresh after giving due and reasonable opportunity of being heard to the assessee.

9. In the result, both the appeals of the assessees are allowed in part for statistical purposes only.

Order pronounced in the open court on 21st June, 2019.

Sd/-
(विजय पाल राव)
(VIJAY PAL RAO)
न्यायिक सदस्य / Judicial Member

Sd/-
(रमेश सी शर्मा)
(RAMESH C SHARMA)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur
दिनांक / Dated:- 21st June, 2019

*Ranjan

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- (i) Shri Mahesh Chand Golecha, Jaipur.

(ii) Smt. Shashi Golecha, Jaipur.

2. प्रत्यर्थी / The Respondent- The I.T.O., Ward 6(1), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 175 & 174/JP/2019)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar