

आयकर अपीलिय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL,
JAIPUR BENCHES (SMC), JAIPUR

श्री रमेश सी.शर्मा, लेखा सदस्य के समक्ष
Before : Shri Ramesh C.Sharma, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. 576/JP/2019
निर्धारण वर्ष/Assessment Year : 2010-11

Smt. Sushila Maheshwari W/o Shri Ganesh Narayan Maheshwari V&P: Banwada, Tehsil: Peeplu, Distt. Tonk	बनाम Vs.	The ITO Ward- Tonk Tonk
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: BRJPS 9493L		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Manish Agarwal, CA
राजस्व की ओर से / Revenue by: Shri Rajender Singh, Addl. CIT-DR

सुनवाई की तारीख / Date of Hearing : 01/08/2019
घोषणा की तारीख / Date of Pronouncement : 02 /08/2019

आदेश / ORDER

PER RAMESH C. SHARMA, AM

This is an appeal filed by the assessee against the ex-parte order of the Id. CIT(A)-3, Jaipur dated 22-03-2019 for the Assessment Year 2010-11, in the matter of order passed u/s 143(3) /147 of the I.T. Act, 1961.

2.1 In this appeal, the assessee is basically aggrieved for ex-parte order passed by the Id. CIT(A) without affording adequate opportunity of hearing to the assessee.

2.2 Rival contentions have been heard and records perused. During the course of hearing, the Id.AR of the assessee contended that the assessee had earlier appointed the counsel Shri Shrawan Kumar Gupta Associate whose address is also mentioned in Form No. 35 for service of notice. Since, the assessee had changed his counsel, therefore, the notice so issued by the Id. CIT(A) was neither served upon the assessee nor the assessee was informed by the earlier counsel regarding the notice issued by the Id. CIT(A) for attending the hearing. The Id.AR of the assessee also filed the affidavit to this effect before the Bench. The Bench has gone through the affidavit so filed by the assessee wherein the Bench found that assessee had earlier appointed counsel Shri Sharwan Kumar Gupta Associate, whose name and address is also mentioned in Form No. 35 for service of notice by the Department. Since the assessee has changed his counsel, therefore, the notice sent by the Id. CIT(A) might have been served at the address mentioned in Form No. 35 which could not be reached to the assessee due to change of counsel. Considering the facts and circumstances of the case and also in the substantial interest of justice, I restore the matter to the file of the Id. CIT(A) for afresh hearing after providing reasonable opportunity of being heard to the assessee. The assessee is also directed to appear before the Id. CIT(A) within a period

of 2 months from the date of receipt of this order. In case of any non-compliance, the ld. CIT(A) will be at liberty to pass the order after considering the merits of the case. I direct accordingly.

3.0 In the result, the appeal of the assessee is allowed for Statistical purposes.

Order pronounced in the open court on 02 /08/2019.

Sd/-

(रमेश सी शर्मा)

(Ramesh C. Sharma)

लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 02 /08/ 2019

*Mishra

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

1. अपीलार्थी / The Appellant- Smt. Sushila Maheshwari, Tonk
2. प्रत्यर्थी / The Respondent- The ITO, Ward- Tonk
3. आयकर आयुक्त(अपील) / CIT(A),
4. आयकर आयुक्त / CIT,
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No.576/JP/2019)

आदेशानुसार / By order,

सहायक पंजीकार / Assistant. Registrar