

**In the Income-Tax Appellate Tribunal,
Agra Bench, Agra**

**Before : Shri Laliet Kumar, Judicial Member And
Dr. Mitha Lal Meena, Accountant Member**

**ITA No. 134/Agr./2019
Assessment Year: 2008-09**

Shri Laxmi Naryan, S/o Sh. Amir chand, Village Dhiroli, Post-Manpur, Distt. Sheopur (MP) (PAN- AMOPN3834B) (Appellant)	vs.	Income-tax Officer, Shivpuri. (Respondent)
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Appellant by	Sh. Ravi Agarwal, Advocate
Respondent by	Sh. Waseem Arshad, Sr. DR

Date of Hearing	03.09.2019
Date of Pronouncement	11.09.2019

ORDER

Per Laliet Kumar, J.M.:

This appeal is filed by the assessee feeling aggrieved from the order of Id. CIT(A)- dated 30.11.2017 on the following grounds :

- 1. Because the order passed by CIT Appeal ex-parte without appreciating the material on record is illegal and bad in law.*
- 2. Because no proper opportunity was allowed to the assessee for compliance to be made before the AO or the appellate authorities. He is an agriculturist resides at distant place villate - Dhiroli, Post Manpur, Distt, Sheopur which is nearly 250 kms. away from Gwalior. Assessee remained ill several times and there was a communication gap between the assessee, his counsel and the department .There was a reasonable cause for non compliance.*
- 3. Because this case has been taken under scrutiny on the basis of AIR information of deposit of cash Rs. 10.90 lakhs in his S.B. A/c No. 100112 in his Central Bank of*

India, Branch Sheopur which was on the record of the AO. Assessment is made u/s 144 of the IT Act. It should have been made judicially on the basis of material available on record. The copy of S.B. A/c of the assessee is already on the record which shows the various debit and credit entries of cash and the credits in the bank were covered from the earlier withdrawals and also agricultural income. The learned AO and CIT appeal was not justified in confirming such order passed without considering the material available on record.

4. Because assessee is an agriculturist hold 40 bigah agriculture land of himself and his parents and grows mustard seeds which is sold in the market. The deposits in the bank were out of sale proceed of agricultural produce.

5. Because the addition of Rs. 10.90 lakhs is illegal and bad in law and may kindly be deleted.”

2. At the outset, the ld. AR submitted that the assessee is an agriculturist and was not regular and punctual in appearing before the lower authorities, i.e., Assessing Officer and CIT(A) and as such, the assessment by the Assessing Officer and the appeal by the ld. CIT(A) were decided exparte. He has taken us to paragraph No. 5 of the CIT(A) order and submitted that one more opportunity be granted to the assessee and the assessee may be burdened with some reasonable cost.

3. Per contra, the ld. DR has submitted that the assessee was not vigilantly pursuing the assessment proceedings and the appeal proceedings and hence, the CIT(A) has decided the matter by applying the decision in the case of CIT vs. Multiplan India Ltd. 38 ITD 320.

4. We have heard the rival contentions of the parties and perused the record. In paragraph No. 5, the delay and latches on the part of the assessee are conspicuous and we reprimand the same. However, considering the object of the tax adjudication, i.e., the tax is required to be collected from the person who is liable to pay it, and keeping that loud principle in mind, we deem it appropriate to remand the matter back to the file of CIT(A) subject to payment of Rs.10,000/- as cost as agreed by the ld. AR with the office of ITAT Tax Bar Association, Agra. It is made clear that similar amount of Rs.10,000/- shall be contributed by the ITAT Tax Bar Association from its corpus and would be spent on the maintenance of the conference hall/waiting hall of the lawyers/CAs. Hence, the appeal of the assessee is allowed for statistical purposes.

5. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the open court on 11th September, 2019

Sd/-
(Dr. Mitha Lal Meena)
Accountant Member

Sd/-
(Laliet Kumar)
Judicial member

Dated: 11th Sept., 2019

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Copy of order forwarded to:

(1) <i>The appellant</i>	(2) <i>The respondent</i>
(3) <i>Commissioner</i>	(4) <i>CIT(A)</i>
(5) <i>Departmental Representative</i>	(6) <i>Guard File</i>

By order

Assistant Registrar
Income Tax Appellate Tribunal
Agra Bench, Agra