

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL,
JAIPUR BENCHES,"A" JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE: SHRI SANDEEP GOSAIN, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 483/JP/2019
निर्धारण वर्ष/Assessment Year : 2014-15

M/s. Singhanian University Pacheri Kalan, Buhana Jhunjhunu	बनाम Vs.	The ACIT Exemption Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAAJS3900 P		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri S.R. Sharma, CA &
Shri R.K. Bhatra, CA
राजस्व की ओर से / Revenue by : Shri Varinder Mehta, (CIT)

सुनवाई की तारीख / Date of Hearing : 26/09/2019
उदघोषणा की तारीख / Date of Pronouncement: 30/09/2019

आदेश / ORDER

PER: SANDEEP GOSAIN, J.M.

The present appeal has been filed by the assessee against the order of CIT(A)-3, Jaipur dated 19.12.2018 for the assessment year 2014-15 wherein the assessee has raised following grounds.

“1. That on the facts and in the circumstances of the case, the Id. CIT(A) is wrong, unjust and has erred in

law in dismissing the appeal filed by the appellant against assessment by passing ex-parte order without providing adequate opportunity to the appellant to present its case and without appreciating material available on record.

2. That without prejudice to the Ground No. 1 above on the facts and in the circumstances of the case the Id. CIT(A) is wrong, unjust and has erred in law in not deciding following grounds of appeal raised by the appellant:-

(a) That the impugned order passed by the assessing officer is wrong and bad in law.

(b) That the addition of Rs. 9,53,67,236/- to the income of the appellant on account of disallowance of exemption u/s 10(23C)(vi) of the I.T. Act, 1961 allegedly on the ground exemption under section is withdrawn from A.Y. 2013-14 and onwards is wrong and bad in law inasmuch as appeal against said withdrawal order is pending before the ITAT."

2.1 At the outset of the hearing, we noticed that the ex-parte order was passed by the Id. CIT(A) holding that in spite of issuance of notices upon the assessee, the assessee did not appear before him on the dates of hearing. The Id. CIT(A) while passing the ex-parte order in the case of the assessee relied upon the decision of Hon'ble Supreme Court in the case of CIT vs H.M. Esufali H.M. Abdulali (1973) 90 ITR 271.

2.2 The Id.AR of the assessee submitted that at no point of time the notices issued by the Id. CIT(A) were served upon him or his authorised representative. The Id.AR of the assessee in support of his contentions has filed the affidavit of Shri Bhupendra Singh S/o Shri Ram Singh, Joint Registrar of Singhania University. The Id.AR of the assessee has also filed the affidavit of one Shri Manish Agarwal, CA of M/s. Brij Kishore & Company, Jhunjhunu who has deposed therein that no such notice of hearing of appeal was served upon him or other authorized officer. From the contents of the affidavits, we noticed that the categorical stand has been taken by the assessee that assessee was not served upon the notices by the Id. CIT(A), and the assessee was not aware of the passing of the order by Id. CIT(A)'s till 5th March,2019.

2.3 During the course of hearing, the Id. DR supported the order of the Id. CIT(A).

2.4 We have heard the rival contentions and perused the materials available on record. From the Id. CIT(A)'s order, we noticed that he has not mentioned anywhere in his order that the notices issued by him were served upon the assessee or his authorized representative. What has been mentioned is that the notices were issued upon the assessee

which does not indicate that the assessee had received the information about the dates of hearing of the appeal before the Id. CIT(A). It appears that the assessee was deprived of receiving the information as to the dates of hearing of the appeal before the Id. CIT(A)

2.4.1 Be that as it may, we are of the considered view that the interest of justice would be met in case the present appeal is restored back to the file of Id. CIT(A) with a direction to decide the same on merits after hearing. Therefore, keeping in view our above observations, we restore the matter back to the file of Id. CIT(A) with a direction to decide the same afresh after providing one more opportunity to the assessee. Simultaneously, we direct the assessee to appear before Id. CIT(A) within 30 days from the date of receipt of this order. The assessee would be at liberty to raise all the grounds raised before us or any other grounds if so advice, before Id. CIT(A) and the Id. CIT(A) shall adjudicate upon all the grounds raised by the assessee by passing a speaking order. With these directions, we allow the appeal filed by the assessee for statistical purposes.

3.0 In the result, the appeal filed by the assessee is allowed for Statistical purposes with no order as to cost.

Order pronounced in the open court on 30/09/2019.

Sd/-
(विक्रम सिंह यादव)
(Vikram Singh Yadav)
लेखा सदस्य / Accountant Member

Sd/-
(संदीप गोसाईं)
(Sandeep Gosain)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 30 /09/2019.

*Mishra

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

1. अपीलार्थी / The Appellant- M/s. Singhanian University, Jaipur
2. प्रत्यर्थी / The Respondent-The ACIT, Exemption, Jaipur
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलार्थी अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File {ITA No. 483/JP/2019}

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar