

आयकर अपीलीय अधिकरण, इन्दौर न्यायपीठ, इन्दौर

**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI MANISH BORAD, ACCOUNTANT MEMBER**

**ITA No.840/Ind/2018
Assessment Year: 2014-15**

Shri Indra Pal Jain 6/923, Jain Bhawan Shaheed Nagar Bhopal (Appellant)	<u>बनाम/</u> Vs.	ITO-3(2) Bhopal (Revenue)
P.A. No.ADBPJ0562G		

Appellant by	Shri Ashish Goyal & Shri N.D. Tiwari, A.Rs
Respondent by	Shri K.G. Goyal, D.R
Date of Hearing:	26.11.2019
Date of Pronouncement:	27.11.2019

आदेश / O R D E R

PER KUL BHARAT, J.M:

This appeal by the assessee is directed against order of the CIT(A)-2, Bhopal dated 5.9.2018 pertaining to the

assessment year 2014-15. The assessee has raised following grounds of appeal:

1. That on the facts and in the circumstances of the case, the leaned CIT (Appeals) erred in passing the order without hearing the appellant stating that on the date of hearing fixed on 27.08.2018 none attended while the actual date of hearing was 28.08.2018. Thus, the order passed is unjust, unfair and bad in law.

2. That on the facts and in the circumstances of the case, the leaned CIT (Appeals) erred in confirming the imposition of penalty u/s 271B amounting to Rs.1,50,000/- without considering the facts properly.

3. That on the facts and in the circumstances of the case, the penalty of Rs.1,50,000/- imposed u/s 271B of the Act for failure to get the accounts audited is not justified in this case as the assessee was under bonafied belief that his case is not covered u/s 44AB of the Act as he is not a dealer or pakka adtiya but only a commission agent and the commission received during the year is below the limit as prescribed u/s 44AB of the Act for getting the accounts audited by a Chartered Accountant.

4. That the appellant craves leave to add, to urge, to alter or to amend any of the ground of the appeal on or before the date of hearing.

2. At the outset, Ld. Counsel for the assessee submitted that the Ld. CIT(A) had dismissed the appeal ex-parte to the assessee. It is submitted that in the notice of hearing date of hearing was different and the appeal was heard a

day before. Therefore, there was a reasonable cause for not appearing before the Ld. CIT(A).

3. Ld. D.R. opposed these submissions and supported the orders of the authorities below.

4. We have heard the rival submissions, perused the materials available on record and gone through the orders of the authorities below. We find that the impugned order has been passed ex-parte to the assessee. Considering the totality of the facts, in the interest of principles of natural justice, impugned order is set aside. Appeal is restored to the file of Ld. CIT(A) to decide it afresh.

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

Order was pronounced in the open court on 27.11.2019.

Sd/-

(MANISH BORAD)
ACCOUNTANT MEMBER

Sd/-

(KUL BHARAT)
JUDICIAL MEMBER

Indore; दिनांक Dated : 27/11/2019
VG/SPS

Copy to: Assessee/AO/Pr. CIT/ CIT (A)/ITAT (DR)/Guard
file.

By order

Assistant Registrar, Indore