

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. 384/JP/2019
निर्धारण वर्ष/Assessment Year : 2014-15

Shri Edgar Francis Thomos 208-209,Venkatshwar Tower Central Spine,Vidhyadhar Nagar, Jaipur	बनाम Vs.	The ACIT Circle - 4 Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AECPT 7955 H		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Anil Sharma, CA
राजस्व की ओर से / Revenue by: Shri K.C. Gupta, (JCIT)

सुनवाई की तारीख / Date of Hearing : 15/01/2020
उदघोषणा की तारीख / Date of Pronouncement: 23 /01/2020

आदेश / ORDER

PER: SANDEEP GOSAIN, J.M.

The present appeal has been filed by the assessee against the order of CIT(A), Ajmer dated 28.01.2019 for the assessment year 2014-15 raising therein following grounds of appeal.

"1. Under the facts and circumstances of the case, the CIT is not justified in not condoning the delay of 85 days in filing of the appeal and in dismissing the same as not admitted.

2 Under the facts and circumstances of the case the AO is not justified in making the addition of Rs. 58,50,954/- to returned income towards alleged undisclosed income from salary.’’

2.1 Brief facts of the case are that the assessee had filed an appeal before the Id. CIT(A) against the order of the assessment passed u/s 144/143(3) of the I.T. Act, 1961. However, there was delay of approximately three months in filing the same. The Id. CIT(A) rejected the application filed by the assessee for seeking the condonation of delay and consequently dismissed the appeal of the assessee.

2.2 Before us, the Id.AR of the assessee reiterated the same arguments as were raised by him before the Id. CIT(A) and submitted that the assessee is a Senior Citizen of around 72 years of age and the assessee was suffering from heart disease and because of that the assessee was admitted in the Hospital at Kochi, Kerala for his heart Surgery. The Id.AR of the assessee further submitted that because of this reason the assessee could not participate in the assessment proceeding. Hence the AO passed the assessment order u/s 144/143(3) of the Act. The Id.AR of the assessee further submitted that because of ill-health, the assessee could not visit the office of the A.R. during the month of January 2017 to March 2017

and because of this reason there was delay in filing the appeal before the Id. CIT(A). It was further submitted that the assessee had sufficient cause for not filing the appeal within the limitation period.

2.3 On the other hand, the relied on the order passed by the Id. CIT(A).

2.4 We have heard the rival contentions and perused the materials available on record as well as the order passed by the Id. CIT(A). From the records, we noticed that the assessee had placed on record the medical treatment and hospitalization record in support of his application for seeking the condonation of delay before the Id. CIT(A). After perusal of that records, we are of the considered view that the assessee was prevented from sufficient cause for not filing the appeal within time before the Id. CIT(A). Therefore, keeping in view the principles laid down by the Hon'ble Supreme Court in the case of Collector, land Acquisition vs. MSt. Katiji and Others, 167 ITR 471 (SC), we condone the delay in filing appeal before the Id. CIT(A) and while setting aside the order of the Id. CIT(A), restore back the appeal of the assessee to the file of the AO for passing the afresh assessment order by providing reasonable opportunity of being heard to the assessee as the earlier was passed u/s 144/143(3) of the Act . The assessee is also directed to submit

the concerned papers before the AO for finalizing the de novo assessment. Since the appeal of the assessee is restored back to the file of the AO for afresh adjudication, therefore, the ground no 2 raised by the assessee does not require any adjudication by us. Thus the appeal of the assessee is allowed 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 23/01/2020.

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

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

जयपुर / Jaipur
दिनांक / Dated:- 23/01/2020.

*Mishra

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

1. अपीलार्थी / The Appellant- Shri Edgar Francis Thomos, Jaipur
2. प्रत्यर्थी / The Respondent-The ACIT, Circle – 4, Jaipur
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
5. गार्ड फाईल / Guard File {ITA No. 384/JP/2019}

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar