

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL,
INDORE BENCH, INDORE
BEFORE HON'BLE KUL BHARAT, JUDICIAL MEMBER
AND HON'BLE MANISH BORAD, ACCOUNTANT MEMBER

ITA No 457/Ind/2018
Assessment Year 2013-14

DCIT 1(1), Indore	Vs.	Shri Deepak Baman, 1849-D, Sudama Nagar, Indore
(Revenue)		(Respondent)
PAN ABLPB5609Q		

Revenue by	Shri K.G. Goyal
Assessee by	None
Date of Hearing	12.03.2020
Date of Pronouncement	18.03.2020

ORDER

PER MANISH BORAD, AM

The above captioned appeal filed at the instance of Revenue pertaining to Assessment Year 2013-14 is directed against the orders of Ld. Commissioner of Income Tax (Appeals)-1 (in short 'Ld.CIT(A)'], Indore dated 22.02.2018 which is arising out of the order u/s 144 of the Act dated 23.03.2016 framed by DCIT-1(1), Indore.

2. Revenue has raised following grounds of appeal:-

1. *On the facts and in the circumstances of the case the CIT(A) has erred in deleting the complete cash deposited in bank for Rs. 1,17,32,400/- as income of the assessee and further amount of Rs. 1,07,00,000/- of cash deposits as per CIB transaction received in this office.*

2. *On the facts and in the circumstances of the case the CIT(A) has erred in deleting the addition of the brokerage of Rs. 8,46,193/- on account of brokerage expenses which was not duly explained during the assessment proceedings.*

3. *Whether on the facts and in the circumstances of the case the CIT(A) is justified in ignoring the remand report of the Assessing Officer in respect of addition made.*

The appellant craves leave to add to deduct from or otherwise amend the above grounds of appeal.

3. Brief facts of the case as culled out from the records are that the assessee is an individual engaged in the business of Real Estate & Developers. Return of income for Assessment Year 2013-14 was filed on 30.9.2013 declaring income of Rs.22,34,540/-. The case was selected for scrutiny and assessment was completed on 23.03.2016 u/s 144 of the I.T. Act assessing total income at Rs.2,58,23,250/- by making various additions. Aggrieved assessee preferred appeal before

Ld. CIT(A) and partly succeed.

5. Now the Revenue assessee is in appeal before the Tribunal against the deletion of addition for cash deposited in bank for Rs.1,17,32,400/ and Rs.1,07,00,000/- as per CIB transaction and also deleting brokerage of Rs.8,46,193/-.

6. When the case was called none appeared on behalf of the assessee. Even in the past on various dates of hearing 15.5.19, 22.8.19, 17.10.19, 9.12.19 and on 12.3.2020 none has appeared on behalf of the assessee. It was thus decided to hear the appeal with the assistance of Ld. Departmental Representative and the available records.

7. At the outset Ld. Departmental Representative submitted that the order of the Ld. A.O has passed order u/s 144 of the Act and it shows that the assessee did not appear on any of the date of hearing and no information were provided as asked by the Ld. A.O. During the course of appellate proceedings Ld. CIT(A) failed to called for any remand report. There is no fact on record to show that the bank account held by the assessee in which cash has been deposited is

duly accounted for in the books of accounts. Request was made to set aside the issue to Ld. CIT(A) for deciding afresh.

8. We have heard rival contention and perused the records placed before us. We observe that the assessee is a real estate developer. Return of income was filed on 30.9.2015 declaring income of Rs. 22,34,540/-. Case was selected for scrutiny by way of serving notices u/s 143(2) and 143(1) of the Act and questionnaire was issued. Few details were filed thereafter the Ld. Counsel for the assessee showed his unwillingness to continue as authorized representative of the assessee. Subsequently nobody appeared on behalf of the assessee nor assessee himself appeared. This left no option with the Ld. A.O except to pass an *ex-parte* order making various additions. After conducting assessment proceedings and to arrive at the correct income of the assessee in the cases selected for scrutiny, the assessee is duty bound to furnish all the information and details to the satisfaction of the Ld. A.O who is the first authority to examine the details and assess correct income.

9. The assessee has not appeared before Ld. A.O but subsequently he appeared before Ld. CIT(A) who also in the instant case has not

given any reference of remand report which he should have been taken from the Ld. A.O before deciding the issues.

10. In the given facts and circumstances of the case we are of the view that in the interest of justice and fair play all the issues raised by the revenue in this appeal needs to be set aside to the file of Ld. A.O for afresh examination and passing denovo assessment order. Needless to mention that reasonable opportunity of being heard is to be provided to the assessee but in case the assessee do not appear in person or through Authorized Representative in the second round on first three dates of hearing except for unavoidable circumstances, the Ld. A.O will be at liberty to go ahead and frame the assessment after assessing the income as per the provisions of Income Tax Act.

11. In the result appeal of the revenue is allowed for statistical purposes.

The order pronounced in the open Court on 18.03.2020.

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

दिनांक /Dated : 18 March, 2020
/Dev

Deepak Baman
ITA No.457/Ind/2018

Copy to: The Appellant/Respondent/CIT concerned/CIT(A)
concerned/ DR, ITAT, Indore/Guard file.

By Order,
Asstt.Registrar, I.T.A.T., Indore