

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

श्री विजय पाल राव, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE: SHRI VIJAY PAL RAO, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 494/JP/2019
निर्धारण वर्ष / Assessment Year :2013-14

Shri Ashok Kumar Saini, Behind Meena Dharamshala, Naya Bass, Alwar.	बनाम Vs.	I.T.O., Ward- 2(1), Alwar.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AFCPS 0681 L		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by: Shri P.C. Parwal (CA)
राजस्व की ओर से / Revenue by : Mrs. Chanchal Meena (Addl.CIT)

सुनवाई की तारीख / Date of Hearing : 02/06/2020
उदघोषणा की तारीख / Date of Pronouncement : 02/06/2020

आदेश / ORDER

PER: VIJAY PAL RAO, J.M.

This appeal by the assessee is directed against the order dated 19/03/2019 of Id. CIT(A), Alwar for the A.Y. 2013-14. The assessee has raised following grounds of appeal:

- "1. The Id. CIT(A) has erred on facts and in law in deciding the appeal ex parte without providing adequate opportunity of hearing to the assessee.*
- 2. The Id. CIT(A) has erred on facts and in law in not deciding the individual grounds of appeal on merits and thereby upholding the order of AO.*
- 3. The assessee craves to amend, alter and modify any of the grounds of appeal.*
- 4. Necessary cost be awarded to the assessee."*

2. The hearing of the appeal was concluded through video conference in view of the prevailing situation of Covid-19 Pandemic. The Id AR of the assessee has submitted that the Id. CIT(A) has passed impugned order ex parte without affording a reasonable and appropriate opportunity of hearing to the assessee. Even the appeal was dismissed summarily without adjudication of the matter on merits. The Id AR has further submitted that on all the occasions of the date of hearing, he has filed adjournment, however, the Id. CIT(A) without giving the reasons for rejecting the adjournments, has passed the impugned ex parte order. Therefore, it is a violation of principles of natural justice. When there was an adjournment application on behalf of the assessee, which was neither specifically disallowed nor any reason is given for rejecting the request for adjournment. Hence, the Id AR has submitted that the impugned order may be set aside and the assessee may be given one more opportunity of hearing before the Id. CIT(A).

3. On the other hand, the Id DR has objected to the setting aside of the matter and giving more opportunity to the assessee. She has contended that the assessee has not produced any evidence in support of the claim despite eight opportunities were given by the Id. CIT(A), therefore, no further opportunity should be given to the assessee. She has relied on the order of the Id. CIT(A).

4. We have considered the rival submissions as well as relevant material on record we note that the Id. CIT(A) has dismissed the appeal of the assessee by passing the impugned ex parte order in para 3.1 to 3.3 as under:

“3.1 In this case, notices u/s 250 was issued to the appellant by fixing the hearing on 26-04-2018, 17-07-2018, 08-08-2018, 30-08-2018, 19-09-2018, 04-10-2018, 10-10-2018 and 15-11-2018 by this office. AR sought adjournments at number of occasions and liberal time was given. Still no submission was made in support of the claims. Opportunity of being heard is central to any adjudication process but that does not absolve the appellant from non attendance and submission of evidences in support of ground of appeal despite repeated and several notices sent and served and not responded. An adjudication proceeding cannot be held in abeyance indefinitely on account of non attendance of the appellant or his AR. In this case the continued non responsive attitude of the appellant has left no option before me but to decide the appeal on the basis of evidences on record.

3.2 I have taken into consideration the facts of the case filed along with Form No. 35.

3.3 In absence of any submissions by the appellant in support of its claims, I have relied upon the facts mentioned in the assessment order. Accordingly, I do not see any reason to interfere in the assessment order. Hence, the appeal is dismissed.”

Though, the Id. CIT(A) has mentioned various dates of hearing on which the appeal of the assessee was fixed. However, there is no reason given

by the Id. CIT(A) for rejecting the adjournments sought on behalf of the Id AR of the assessee. Even while passing the ex parte order, the Id. CIT(A) has not decided the issue on merits but summarily dismissed the appeal of the assessee due to non-appearance. The impugned order of the Id. CIT(A) is not in conformity with the provisions of Section 250(6) of the Income Tax Act, 1961 which requires the CIT(A) has to pass order in writing giving reasons for his conclusion. Accordingly, in the facts and circumstances of the case, we set aside the impugned order to the record of the Id. CIT(A) for granting one more opportunity of hearing to the assessee and then decide the appeal on merits of the issue. We may clarify that in case, the assessee fails to appear and argue before the Id. CIT(A), the opportunity granted by us shall stand vacated.

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

Order pronounced in the open court on 02nd June, 2020.

Sd/-
(विक्रम सिंह यादव)
(VIKRAM SINGH YADAV)
लेखा सदस्य / Accountant Member

Sd/-
(विजय पाल राव)
(VIJAY PAL RAO)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur
दिनांक / Dated:- 02/06/2020
*Ranjan

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

1. अपीलार्थी / The Appellant- Shri Ashok Kr. Saini, Alwar.
2. प्रत्यर्थी / The Respondent- The ITO, Ward 2(1), Alwar.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 494/JP/2019)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar