

IN THE INCOME TAX APPELLATE TRIBUNAL  
INDORE SMC BENCH, INDORE

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 566/Ind/2019  
A.Y. 2015-16

Smt. Kusum Jain, Indore  
PAN – AKVPS4300G :: Appellant

Vs

ITO-4(1), Indore :: Respondent

Assessee by	Shri Nitin Agrawal , CA (Through Video Conferencing )
Respondent by	Shri Ashish Porwal, Sr. DR
Date of hearing	28.05.2020
Date of pronouncement	28.05.2020

O R D E R

This appeal is filed by the assessee against the order of Id. CIT(A)-II, Indore dated 11.02.2019. The assessee has raised following grounds of appeal:

- 1. "That the learned CIT Appeals grossly erred, both on facts and in law, by passing the order under section 250, without giving the assessee an opportunity of being heard.*
- 2. The Id. CIT (A) has erred in holding that of total income of the assessee at Rs.35, 86,362/-, as against the Returned Income of Rs. 4,55,090/- thereby confirming addition of Rs. 31,31,272/- without hearing and passing an ex-parte order.*
- 3. The Id. CIT (A) has erred in holding that the entire capital gain arising to the ,appellant from sale of shares as her income from undisclosed sources without hearing and passing an exparte order.*

*4. The appellant further craves leave to add, alter and/or to amend the aforesaid grounds of appeal as and when required. ”*

2. At the outset of the hearing, Id. counsel for the assessee contended that no proper and meaningful opportunity of being heard was given to the assessee by the Id. CIT(A). He submitted that on 08.05.2018, 07.06.2018, 17.07.2018, 20.08.2018, 19.11.2018 & 28.01.2019, he was informed that Id. CIT(A) would not be attending the office on these days. It was further submitted that the Counsel himself had gone to the office of the Id. CIT(A) and found that Id. CIT(A) was not available. Therefore, it was prayed that Id. CIT(A) may be directed in this regard. On the other hand, Id. Sr. DR did not object to the submission of the learned Counsel for the assessee.

3. I have heard both the parties and perused the orders of lower authorities. Considering the facts and circumstances of the case, I am of the view that in the interest of justice, the assessee's matter is liable to be reconsidered by the Id. CIT(A). Accordingly, the impugned order is set aside and the matter is restored back to the file of the Id. CIT(A). The Id. CIT(A) should decide the appeal afresh in terms as indicated hereinabove after affording due opportunity of being heard to the assessee as per law and the assessee is also directed to cooperate/appear before Id. CIT(A) in this regard.

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

Order was pronounced in the open court on 28.05.2020.

**Sd/-  
(KUL BHARAT)  
JUDICIAL MEMBER**

**Dated : 28.05.2020**

**Patel/PS**

**Copy to:**

**Appellant/Respondent/Pr.CIT(A)/Pr.CIT/DR, Indore**