

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.894/Ind/2019
Assessment Year: 2016-17**

Smt. Rama Bhandari, Indore	बनाम/ Vs.	I.T.O. 5(2) Indore
(Appellant)		(Revenue)
P.A. No.CGBPB4925J		
Appellant by	None	
Revenue by	Shri R.P. Mourya, Sr. DR	
Date of Hearing:	08.06.2020	
Date of Pronouncement:	08.06.2020	

आदेश / O R D E R**PER KUL BHARAT, J.M:**

This appeal is filed by the assessee against the order of Id. CIT(A)-II, Indore dated 08.07.2019. The assessee has raised following grounds of appeal:

- “1. That the CIT(A) erred in passing ex parte appeal order.
2. That the Ld. CIT(A) in a haste, vindictively passed the order due to non-appearance on the dates of hearing.
3. that the ‘a’ is a possession of deed and bank statement

(specified in point 6 & 7 of statement of facts) which are quite sufficient to encounter the additions made by AO and confirmed by the CIT(A), therefore it is prayed that in the natural justice, one more opportunity of proving the case may please be provided to the 'a' and the case please be remanded.

4. In the case-GUJARAT THEMIS BIOSYN LTD. VS JOINT COMMISSIONER OF INCOME TAX Ahmedabad Tribunal, Aug,20, 1999 it has been stated that CIT(A) could not dismiss the appeal for non-prosecution simply because assessee had failed to put in an appearance on the various dates of hearing; impugned order is set aside and CIT(A) is directed to dispose of the appeal afresh.

2. At the outset of the hearing, ld. counsel for the assessee did not appear before us. However, the case has been heard with the help of Ld. Departmental Representative and submissions of the assessee. It is contended that no proper and meaningful opportunity of being heard was given to the assessee by the ld. CIT(A). He submitted that on 30.05.2019, 18.06.2019 & 05.07.2019, he was informed that ld. 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 ld. CIT(A) and found that ld. CIT(A) was not available. Therefore, it was prayed that ld. CIT(A) may be directed in this regard. On the other hand, ld. Sr. DR opposed these submissions of the learned Counsel for the assessee.

However, he submitted that the Revenue will have no objection if matter is restored to the file of Ld. CIT(A) for decision on merit.

3. We have heard both the parties and perused the orders of lower authorities. Considering the facts and circumstances of the case, we are of the view that in the interest of justice, the assessee's matter is liable to be reconsidered by the ld. CIT(A). Accordingly, the impugned order is set aside and the matter is restored back to the file of the ld. CIT(A). The ld. CIT(A) is hereby directed to decide the appeal afresh on merit after affording due opportunity of being heard to the assessee as per law and the assessee is also directed to cooperate/appear before ld. 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 08.06.2020.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

Indore; दिनांक Dated : 08/06/2020
Patel/PS

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

By order

Assistant Registrar, Indore