

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "B" 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. 1513/JP/2018  
निर्धारण वर्ष / Assessment Year : 2009-10

UCO Bank Jawahar Nagar, Jaipur.	बनाम Vs.	The ITO, TDS-2,, Jaipur.
स्थायी लेखा सं./ जीआईआर सं./ PAN/GIR No.: AAACU 3561 B		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shir Vijay Gupta (C.A.)  
राजस्व की ओर से / Revenue by : Miss. Chanchal Meena (ACIT)

सुनवाई की तारीख / Date of Hearing : 13/07/2020  
उदघोषणा की तारीख / Date of Pronouncement: 14/07/2020

आदेश / ORDER

PER: VIJAY PAL RAO, J.M.

This appeal by the assessee is directed against the order dated 31.10.2018 of Id. CIT(A)-III, Jaipur arising from the order passed U/s 201(1)/201(1A) of the IT Act for the assessment year 2009-10. Due to prevailing COVID-19 pandemic condition the hearing of the appeal is concluded through video conference. The assessee has raised the following grounds:-

*"1. The Ld. A.O. has not given proper opportunity of being heard to assessee.*

*2. On the facts and in the circumstances of the case, the assessee cannot be held as assessee in default U/s 201(1) of the I.T. Act.*

2. The Id. AR of the assessee has submitted that the Id. CIT(A) dismissed the appeal of the assessee by impugned ex-parte order without giving an appropriate opportunity of hearing. He has pointed out that the assessee has been regularly appearing before the Id. CIT(A) and only on the last date of hearing i.e. 31.10.2018 when the Id. AR of the assessee could not appear before the Id. CIT(A) the appeal was dismissed. He has further submitted that the assessee has also raised additional grounds in this appeal regarding validity of the order passed U/s 201(1)/201(1A) being barred by limitation. Thus the Id. AR pleaded that the additional grounds raised by the assessee be admitted for adjudication.

3. On the other hand, Id. DR has vehemently opposed to the admission of additional grounds as well as additional evidence sought to be filed by the assessee and submitted that the assessee has not explained any reasonable cause for not raising such grounds before the authorities below as well as not filing the evidence before the AO and

the Id. CIT(A). The Id. DR has further submitted that the Id. CIT(A) has granted sufficient opportunity to the assessee but when nobody has attended the hearing on 31.10.2018 the appeal of the assessee was dismissed and order of the AO was upheld. She has relied upon the orders of the authorities below.

4. We have considered the rival submissions as well as relevant material on record. At the outset, we note that the appeal of the assessee was dismissed by the Id. CIT(A) summarily by non speaking order. The Id. CIT(A) has passed the impugned ex-parte order due to non appearance on behalf of the assessee on 31.10.2018. We further note that prior to 31.10.2018 the assessee attended the hearing on 14.09.2018 and 18.10.2018 however, the case was adjourned by the assessee. Thus, when the Id. CIT(A) has not passed a speaking order and dismissed the appeal of the assessee summarily then the impugned order of the Id. CIT(A) suffers from the infirmity. Accordingly, in the facts and circumstances of the case we set aside the impugned order of the Id. CIT(A) and remand the matter to the record of the Id. CIT(A) for fresh adjudication after giving one more opportunity of hearing to the assessee. The assessee is also at liberty to raise these additional grounds before the Id. CIT(A) and also to file the additional evidence, if

any in support of the claim that the assessee was not required to deduct TDS in respect of the amounts credited/paid. The Id. CIT(A) shall decide all the issues to be raised by the assessee.

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

Order pronounced in the open court on 14/07/2020.

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:- 14/07/2020.

\*Santosh.

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

1. अपीलार्थी / The Appellant- UCO Bank, Jaipur, Jaipur.
2. प्रत्यर्थी / The Respondent- ITO, TDS-2, Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File {ITA No. 1513/JP/2019}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar.