

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. 26/JP/2019
निर्धारण वर्ष/Assessment Year :2008-09

Shri Styandarayan Choudhary M/s Kamla Vastra Bhandar Pandit Ganesh Narayan Marg, Chirawa, Jhunjhunu	बनाम Vs.	ITO, Ward-2, Jhunjhunu
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAHPC9373R		
अपीलार्थी /Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से/ Assessee by : None
राजस्व की ओर से/ Revenue by : Ms. Chanchal Meena (Addl. CIT)

सुनवाई की तारीख/ Date of Hearing : 24/07/2020
उदघोषणा की तारीख/Date of Pronouncement: 24/07/2020

आदेश / ORDER

PER: VIKRAM SINGH YADAV, A.M.

This is an appeal filed by the assessee against the order of Id. CIT(A)-4, Jaipur dated 14.11.2018 for Assessment Year 2008-09.

2. The hearing of the matter was scheduled for today through video conferencing in view of the ongoing Covid-19 pandemic situation in the country. None appeared on behalf of the assessee, however, an adjournment application dated 23.07.2020 signed by Shri Saurav Harsh, Counsel for the assessee was received by the Registry stating that the assessee is contemplating to opt for VIVAD SE VISHWAS SCHEME 2020 and as the deadline for the said scheme has been extended till December 2020, the matter may be adjourned.

3. The Id. DR is heard who has drawn our reference to the order of Id. CIT(A) and submitted that as many as 09 opportunities have been provided by the Id CIT(A), however, there is totally no compliance to the notices issued by the Id CIT(A) and the matter has accordingly been decided by the Id CIT(A) confirming the addition made by the AO. It was further submitted that even before the Tribunal, the matter has been listed in the past, however, the authorized representative has sought adjournment from time to time and even today, when the matter was listed for hearing, request has been made for adjourning the matter stating that the assessee is exploring the possibility to opt for VSVS Scheme and there is nothing on record as to when precisely the assessee shall finally decide and apply for such settlement scheme. It was accordingly submitted that more than adequate opportunity has been provided by the Id. CIT(A) and the Tribunal, no useful purpose would be served in providing further opportunity to the assessee. On merits, the Id DR supported the findings of the lower authorities.

4. We have heard the rival submissions and pursued the material available on record. We find that the Assessing officer has passed the impugned order dated 23.03.2016 u/s 143(3) r/w 147 whereby addition of Rs 16,27,654/- has been made by the Assessing officer and which has been confirmed by the Id CIT(A). No doubt, the matter has been listed for hearing before the Id CIT(A) on couple of occasions and has been adjourned from time to time and finally, the matter has been decided *ex-parte* by the Id CIT(A). However, given that the assessee through his authorized representative has stated that he is contemplating filing an application under VIVAD SE VISHWAS SCHEME 2020 in the near future and thus intend to end this litigation and at the same time, no specific time frame has been specified, we find that no useful purpose would be served in granting any further adjournment in the matter and the adjournment application is hereby rejected. At the same time, given that the matter has not been decided on merits, we deem it appropriate to remand the

matter to the file of the Id CIT(A) to provide one more opportunity to the assessee, should the assessee wishes to avail of the same. This will not prejudice the right of the assessee in availing of the aforesaid settlement scheme as once the assessee decides to opt for the scheme and has taken necessary steps as so specified therein, he can bring the same to the notice of the Id CIT(A) who shall then decide and take appropriate action as per law.

5. With the aforesaid directions, the matter is set-aside to the file of the Id CIT(A) who shall decide the same afresh after providing reasonable opportunity to the assessee.

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

Order pronounced in the open Court on 24/07/2020.

Sd/-
(विजय पाल राव)
(Vijay Pal Rao)
न्यायिक सदस्य / Judicial Member

Sd/-
(विक्रम सिंह यादव)
(Vikram Singh Yadav)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 24/07/2020

*Ganesh Kr.

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

1. अपीलार्थी / The Appellant- Sh. Styanarayan Choudhary, Jhunjhunu
2. प्रत्यर्थी / The Respondent- ITO, Ward-2, Jhunjhunu
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. 26/JP/2019}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar