

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCH VC 'A', JAIPUR

श्री विजय पाल रॉव, 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. 240/JP/2019  
निर्धारण वर्ष/Assessment Year : 2010-11.

Smt. Rajeshwari Devi D-396, Vidhyadhar Nagar, Jaipur.	बनाम Vs.	The Income Tax Officer, Ward 4(2), Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN No. AOQPD 0590 J		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Rohan Sogani (CA)

राजस्व की ओर से / Revenue by: Ms Chanchal Meena (Addl. CIT)

सुनवाई की तारीख / Date of Hearing : 21.07.2020.

घोषणा की तारीख / Date of Pronouncement : 22/07/2020.

आदेश / ORDER

PER VIJAY PAL RAO, JM :

This appeal by the assessee is directed against the order dated 27.12.2018 of Id. CIT (A), Ajmer for the assessment year 2010-11. The assessee has raised the following grounds of appeal :-

1. In the facts and circumstances of the case and in law the Id. AO has erred in reopening the assessment u/s 147 of Income Tax Act, 1961. The action of Id. AO is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the reassessment proceedings being illegal and without any basis.
2. In the facts and circumstances of the case and in law the Id. AO has erred in issuing notice u/s 148 without obtaining proper

sanction u/s 151 of Income Tax Act, 1961. The action of Id. AO is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the reassessment proceedings being illegal and without any basis.

3. In the facts and circumstances of the case and in law the Id. AO has erred in passing the order of the assessee ex-parte and without providing adequate opportunity to the assessee to present the case in the first appellate proceedings. The action of the Ld. CIT (A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the reassessment proceedings being illegal and without any basis.
4. In the facts and circumstances of the case and in law the Id. AO has erred in confirming the action of the Id. AO in making addition of Rs. 12,35,000 as alleged unexplained cash deposit. The action of the LD. CIT (A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the said addition of Rs. 12,35,000/-.
5. In the facts and circumstances of the case and in law the Id. AO has erred in confirming the action of the Id. AO in making addition of Rs. 86,316/- as alleged unexplained deposit through bank transfers. The action of the LD. CIT (A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the said addition of Rs. 86,316/-.
6. The assessee craves her right to add, amend, or alter any of the grounds on or before the hearing."

2. The hearing of the appeal was concluded through Video Conference due to the prevailing situation of COVID 19 Pandemic. The Id. A/R of the assessee has submitted that the LD. CIT (A) has dismissed the appeal of the assessee by passing ex parte order and, therefore, the assessee was not provided an adequate opportunity of hearing. He has further pointed out that the assessee is willing to opt for Vivad se Vishwas Scheme to settle the liability.

3. On the other hand, the Id. D/R has submitted that the LD. CIT (A) has granted sufficient opportunity to the assessee but when nobody has attended the hearing on any of the dates, then the appeal of the assessee was decided ex parte.

4. Having considered the rival submissions and careful perusal of the impugned order of the LD. CIT (A), we note that the LD. CIT (A) has dismissed the appeal of the assessee summarily for want of appearance on behalf of the assessee as well as furnishing of any written submissions or other details in support of the claim. The relevant part of order of LD. CIT (A) in para 3.1 is as under :-

*"3.1. I have gone through the assessment order carefully. I find no infirmity in the order passed by the AO. The appellant has not furnished any written submission to show that there is any infirmity in the order passed by the AO. Therefore, in view of the facts discussed by the AO in the assessment order, addition of Rs. 12,35,000/- & Rs. 86,316/- in respect of unexplained cash deposit /transfer in the bank account and addition of interest income of Rs. 5,767/- made by the AO are hereby confirmed."*

Thus it is clear that the LD. CIT (A) has summarily dismissed the appeal of the assessee without passing a speaking order. Accordingly, in the facts and circumstances of the case and in the interest of justice, we set aside the impugned order and remit the matter to the record of the LD. CIT (A) for granting one more opportunity of hearing to the assessee and then pass a speaking order. As regards the assessee's willingness to opt for Vivad se Vishwas Scheme, there will be no adverse impact for opting for

settlement of the dispute under the Scheme as status of the matter remain the same being appeal pending before the LD. CIT (A).

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

Order is pronounced in the open court on 22/07/2020.

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

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

Jaipur

Dated:- 22/07/2020.

Das/

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

1. The Appellant- Smt. Rajeshwari Devi, Jaipur.
2. The Respondent – The ITO Ward 4(2), Jaipur.
3. The CIT(A).
4. The CIT,
5. The DR, ITAT, Jaipur
6. Guard File (ITA No. 240/JP/2019)

आदेशानुसार / By order,

सहायक पंजीकार / Assistant. Registrar