

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. 305/JP/2019  
निर्धारण वर्ष / Assessment Year :2014-15

Shri Ganga Bishan Gurjar, S/o Sh. Dev Lal Gurjar, Near Bisalpur Project Office, Sawai Madhopur, Road, Tonk	बनाम Vs.	ITO, Ward, Tonk
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AOC PG2385J		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Sh. K. L. Moolchandani (CA)  
राजस्व की ओर से / Revenue by : Ms. Chanchal Meena (Addl. CIT)

सुनवाई की तारीख / Date of Hearing : 11/08/2020  
उदघोषणा की तारीख / Date of Pronouncement: 11/08/2020

आदेश / ORDER

PER: VIKRAM SINGH YADAV, A.M.

This is an appeal filed by the assessee against the order of Id. CIT(A)-3, Jaipur dated 03.01.2019 for Assessment Year 2014-15 confirming the addition of Rs 12,17,200/- made by the Assessing officer invoking provisions of section 69A of the Act.

2. The hearing of the matter was scheduled for today through video conferencing in view of the ongoing Covid-19 pandemic situation prevailing in the country. Shri K L Moolchandani, the authorized representative appeared on behalf of the assessee and submitted that no adequate and reasonable opportunity has been provided by the Id. CIT(A) and the appeal has been decided *ex-parte qua* the assessee without adjudicating the grounds of appeal

on merits. It was submitted that firstly, it was not a case of non compliance by the assessee in as much as on all the occasions, the assessee has attended the proceeding through his AR and Id. CIT(A) has also granted adjournment. Regarding non-appearance on the last date of hearing scheduled for hearing on 02.01.2019, it was submitted that the AR of the assessee, Shri Manoj Vijay did attend the office of the Id CIT(A) and appeared before the Id CIT(A) and as the assessee's file was readily not available, the Id CIT(A) assured him that the matter will be re-fixed and he will be informed about the fresh hearing date accordingly, however, the matter was decided *ex-parte* very next day by the Id CIT(A). In this regard, the affidavit of Shri Manoj Vijay was also placed on record. It was further submitted that the Id. CIT(A) has also not decided the matter on merits as required u/s 250(6) of the Act. It was accordingly submitted that in the interest of substantial justice, the appeal may kindly be restored to the file of Id. CIT(A) to decide the same on merits.

3. Per contra, the Id. DR drawn our reference to the order of Id. CIT(A) and submitted that on as many as five occasions, the assessee was provided reasonable opportunity by the Id. CIT(A) but the assessee through its AR has either sought adjournment or has not been bothered to appear before the Id. CIT(A). It was accordingly submitted that more than adequate opportunity has been provided by the Id. CIT(A) and no purposes would be served in providing further opportunity to the assessee. Further, she relied on the order of the lower authorities.

4. We have heard the rival submissions and pursued the material available on record. We find that the matter has been listed for hearing on couple of occasions by the Id CIT(A) and has been adjourned at the request of the Id AR on behalf of the assessee and again on the last date of hearing when the matter was scheduled for hearing, the Id AR did appear before the

Id CIT(A), however, the matter couldn't be taken up due to certain administrative exigencies and thereafter, on the next day, the matter was decided *ex-parte* by the Id CIT(A) summarily without deciding on merits. Therefore, in the interest of justice and fair play and especially where the matter has not been decided on merits, we believe that the assessee deserves one more opportunity to put forth his arguments and contentions and we accordingly set aside the matter to the file of the Id. CIT(A) to examine the matter afresh after providing reasonable opportunity to the assessee. The assessee is also directed to appear before the Id. CIT(A) and file the necessary information and documentation in support of his contentions, as so advised and ensure in timely completion of the proceedings.

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

Order pronounced in the open Court on 11/08/2020.

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:- 11/08/2020

\*Ganesh Kr.

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

1. अपीलार्थी / The Appellant- Sh. Ganga Bishan Gurjar, Tonk
2. प्रत्यर्थी / The Respondent- ITO, Ward, Tonk
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. 305/JP/2019}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar