

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES "B", JAIPUR
श्री संदीप गोसाई, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE SHRI SANDEEP GOSAIN, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 911/JP/2019
Assessment Year: 2010-11

Gaurav Sharma, C/o- Rajiv Goyal, Advocate, C-162, Ranjit Nagar, Bharatpur.	बनाम Vs.	I.T.O., Ward-2, Bharatpur.
PAN No.: BWWPS 0382 J		
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 : 22/10/2020
उदघोषणा की तारीख / Date of Pronouncement : 29/10/2020

आदेश / ORDER

PER: SANDEEP GOSAIN, J.M.

The present appeal has been filed by the assessee against the order of the Id. CIT(A), Alwar dated 08/05/2019 passed /s 154 of the Income Tax Act, 1961 (in short, the Act) for the A.Y. 2010-11. Following grounds have been taken by the assessee:

- "1. That the notice U/s 148 had not been served upon the assessee and the Id. CIT(A) erred in not taking cognizance of this fact and caring to verify it resulting into gross miscarriage of justice.*
- 2. That the notice of fixation of appeal was not served upon the appellant and despite this the Id. CIT(A) had passed an ex parte order and deprived him of an opportunity of being heard.*

3. *That out of the total addition of Rs. 3,00,000/- the Id AO wrongly treated the sum of Rs. 1,42,000/- gifted by the appellant's father as income and the Id. CIT(A) has also not appreciated this fact."*

2. The hearing of the appeal was concluded through video conference in view of the prevailing situation of Covid-19 Pandemic.

3. At the time of hearing, none has appeared on behalf of the assessee. From the record, we observe that the A.O. as well as the Id. CIT(A) had decided the case of the assessee ex parte and the matter may be restored back to the file of the A.O. The Id. DR has raised objection for remanding the matter and submitted that the assessee has not appeared either before the A.O. and before the Id. CIT(A). It was submitted that the assessee is not interested in pursuing his case, therefore, no opportunity should be given to the assessee and the appeal of the assessee may be dismissed with cost.

4. Having heard the contentions of the Id DR and perused the material available on record. It is undisputed fact that the appeal of the assessee was dismissed either by the A.O. and the Id. CIT(A) ex parte. The A.O. has stated in his order that despite providing ample opportunities of hearing during assessment proceedings, the assessee did not attend before the undersigned nor even bothered to make any written compliance in response to the statutory notices/letters issued on various

dates. Before the Id. CIT(A), the assessee had not appeared and thereafter the Id. CIT(A) passed order U/s 154 of the Act and dismissed the appeal of the assessee. Even before the Tribunal, none has appeared on behalf of the assessee. It was the bounded duty of the parties i.e. assessee as well as the Department to appear before the Revenue authorities at all stages. Since, this was the assessee's appeal, therefore it was all the more important for the assessee to appear before A.O. as well as before the Id. CIT(A). However, the assessee had not acted with due diligence. Nevertheless, the principles of natural justice demand that the lis between the parties should be decided on merits after providing due opportunity of hearing to both the parties. Accordingly, in the facts and circumstances of the case and in the interest of justice, we decide to give one more opportunity of hearing to the assessee and we set aside the impugned order of the Id. CIT(A) and remand the matter back to the record of the A.O. for deciding the issue afresh on merits after giving an opportunity of hearing to the assessee subject to cost of **Rs. 2,000/-** to be paid by the assessee in the account of **Prime Minister's Relief Fund** within 30 days from the date of receipt of this order. The assessee is also directed to cooperate with the A.O. in deciding the appeal on merits and without any sufficient reason, not to take further adjournments.

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

Order pronounced in the open court on 29th October, 2020.

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

Sd/-
(संदीप गोसाईं)
(SANDEEP GOSAIN)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 29/10/2020

*Ranjan

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

1. अपीलार्थी / The Appellant- Shri Gaurav Sharma, Bharatpur.
2. प्रत्यर्थी / The Respondent- The I.T.O., Ward-2, Bharatpur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 911/JP/2019)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar