

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL,
INDORE BENCH, INDORE

BEFORE HON'BLE MANISH BORAD, ACCOUNTANT
MEMBER AND
HON'BLE MADHUMITA ROY, JUDICIAL MEMBER

Virtual Hearing

ITA No.139/Ind/2020
Assessment Year:2016-17

Gaura Educational Society Dhar (Appellant)	बनाम/Vs.	ITO-(Exemption) Indore (Respondent)
P.A. No.AAAAG7829E		

Appellant by	Shri Arpit Gaur, AR
Revenue by	Shri Harshit Bari, Sr. DR
Date of Hearing:	24.06.2021
Date of Pronouncement:	24.06.2021

ORDER

PER MANISH BORAD, A.M:

This appeal is filed by the assessee challenging the order of Id. CIT(A)-2, Indore, dated 18.11.2019. The sum and substance of the grounds of appeal is that the Id. CIT(A) has erred in dismissing the appeal of the assessee for non-prosecution and thereby confirming the additions.

2. The Ld. counsel for the assessee contended that no proper opportunity was given to the assessee and the ld. CIT(A) dismissed the appeal after applying the provisions of Multiplan India Limited. Learned Counsel for the assessee prayed that ld. CIT(A) may kindly be directed to give another opportunity to the assessee and pass the order on merits of the case.

3. The Ld. Senior D.R. objected to restoration and relied upon the orders of the lower authorities.

4. We have perused the orders of lower authorities and gone through the rival contentions. We find that the ld. CIT(A) has dismissed the appeal by applying Multiplan India Limited, 38 ITD 320. The principle of *audi alteram partem* is the basic concept of natural justice. The expression "*audi alteram partem*" implies that a person must be given opportunity to defend himself. This principle is *sine qua non* of every civilized society. The right to notice, right to present case and evidence, right to rebut adverse evidence, right to cross examination, right to legal representation, disclosure of evidence to party, report of enquiry to be shown to the other party and reasoned decisions or speaking orders. We find that the rule of fair hearing is necessary before passing any order. We find that it is pre-decision hearing standard of norm of rule of *audi alteram partem*. We find that in the instant appeal, the assessee was not given proper hearing. Therefore, we are of the view that the assessee must be given opportunity of being heard and to represent the case. The assessee is directed to remain present before the ld. CIT(A) after

the receipt of this order. The ld. CIT(A) would decide the appeal after giving due opportunity of hearing to the assessee as per law and the assessee is also directed to cooperate with the ld. CIT(A) in this regard.

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

Order pronounced as per Rule 34 of the I.T.A.T. Rules 1963 on 24.06.2021.

Sd/-

(MADHUMITA ROY)
JUDICIAL MEMBER

Sd/-

(MANISH BORAD)
ACCOUNTANT MEMBER

दिनांक /Dated : 24.06. 2021

Patel/PS

Copy to: The Appellant/Respondent/CIT concerned/CIT(A) concerned/ DR, ITAT, Indore/Guard file.

By Order,
Asstt.Registrar, I.T.A.T., Indore