

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

**BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER**

(Conducted through Virtual Court)

**ITA No.145/Ind/2021
Assessment Year: 2013-14**

Gurusharan Sakh Sahkari Maryadit, Indore	Vs.	ITO-4(2) Indore
(Appellant / Assessee)		(Respondent/ Revenue)
PAN: AABTG 2698 B		
Assessee by	Shri Anil Kamal Garg, & Arpit Gaur, ARs	
Revenue by	Shri P.K. Mitra, CIT-DR	
Date of Hearing	14.07.2022	
Date of Pronouncement	21.07.2022	

ORDER

Per B.M. Biyani, A.M.:

1. This appeal by assessee is directed against the order dated 27.12.2019 of learned Commissioner of Income-Tax (Appeals)-II Indore [**Ld. CIT(A)**] in Appeal No. IT-10108/2019-20/438, which in turn arises out of the order of assessment dated 21.12.2018 passed by the learned ITO, 4(2), Indore [**Ld. AO**] u/s 144 read with section 263 of the Income-tax Act, 1961 [**the Act**] for Assessment-Year 2013-14.

2. Brief facts are such that the assessee is an AOP (Cooperative Society) constituted under the Madhya Pradesh Swayath Sahkarita Adhiniyam, 1999 read with Madhya Pradesh Cooperative Society (Amended) Act, 2012. The

assessee submitted return declaring a total income of Rs. 2,89,600/- on 21.09.2013 which was assessed u/s 143(3) of the act vide order dated 31.03.2016 at a total income of Rs. 9,26,640/-. Subsequently, Ld. Pr. CIT-2, Indore passed revision-order dated 29.03.2018 u/s 263 of the act whereby the order of assessment was set aside and the Ld. AO was directed to make assessment afresh. In pursuance of the order u/s 263, Ld. AO took up the proceeding of re-framing assessment and issued statutory notices to the assessee. However, the notices remained un-responded and the Ld. AO had to complete assessment vide order dated 21.12.2018 u/s 144 of the act, wherein the Ld. AO determined total income at Rs. 4,48,17,63,374/-. Aggrieved by order dated 21.12.2018, the assessee filed appeal to Ld. CIT(A).

3. During appellate proceeding before Ld. CIT(A), the assessee did not make any submission and therefore the Ld. CIT(A) proceeded on the basis of available material and decided appeal accordingly. The relevant Para No. 3 of the order of Ld. CIT(A) is reproduced below to indicate this state of affairs:

“3. During the course of assessment proceedings, the attitude of the appellant was non cooperative towards the department. Various notices were issued by the Assessing Officer for obtaining information from the appellant, but the appellant had not made any compliance and had maintained its attitude of non-cooperation. At the stage of appellate proceedings also, the appellant neither appeared before this office nor submitted any submission in support of its case. Hence, it is clear from the above circumstances that the Assessing Officer as well as the undersigned had given sufficient opportunity to the appellant but he had failed to use the same. Hence, in interest of justice as well as taking a judicious view, the case is being decided by the undersigned on merit basis.”

4. This way, the Ld. CIT(A) decided appeal ex parte *qua* assessee on the basis of available material. The assessee did not get any relief in the order of Ld. CIT(A). Being aggrieved by order of Ld. CIT(A), the assessee has filed this appeal and now before us.

5. During the course of hearing before us, the Ld. AR appearing on behalf of assessee made a very humble submission that the assessee had been passing through liquidation process and that is the precise reason that

the notices issued by the lower authorities did not reach to the assessee. Carrying our attention to the opening paragraphs of the assessment-order dated 21.12.2018, the Ld. AR demonstrated that the notice dated 21.06.2018 u/s 143(2) sent by Ld. AO was returned back unserved and the said notice was served by Ld. AO by way of affixture on the premise of assessee. Going further, the Ld. AR submitted that the notice dated 07.12.2018 issued by Ld. AO u/s 142(1) was also returned as unserved and the same was also served by affixture. Thereafter, Ld. AR submitted that even during the course of appellate proceeding before Ld. CIT(A), the assessee was not able to make submissions because of being unaware of fixation of hearings. Ld. AR submitted that the attitude of assessee is not non-cooperative. According to Ld. AR, the assessee is passing through liquidation phase and there is no person to take care of the affairs of assessee and that is the precise reason that the notices sent by Ld. AO / Ld. CIT(A) could not be responded to. Ld. AR submitted that the non-compliances are the result of difficult time faced by the assessee and not intentional. Ld. AR prayed the Bench to take a liberal view considering the miserable position of assessee. Ld. AR submitted that in the interest of justice, one more opportunity should be afforded to the assessee by remitting matter back to Ld. CIT(A). Ld. AR submitted that the assessee shall make all efforts to submit the details and documents required by the Ld. CIT(A).

6. Ld. DR, realizing the fact that the assessee is in liquidation process and willing to make compliances, agreed to the submission of Ld. AR.

7. We have considered submission of parties and perused the record. We observe that the notices issued by Ld. AO as well as Ld. CIT(A) could not be served upon the assessee because the assessee had been passing through liquidation process. We further observe that the assessee is still ready to supply the details and documents required by revenue for proper disposal of his case. We further observe that the assessee is a society and the assessed income has reached to the level of Rs. 448,14,73,774/- which is many-fold of the returned income of Rs. 2,89,600/- as well as originally-assessed

income of Rs. 9,26,640/-. Taking a judicious view of the situation, we feel persuaded to accept the request of Ld. AR that an opportunity should be given to the assessee to submit details / documents. Therefore, we quash the order passed by Ld. CIT(A) and remand this matter back to Ld. CIT(A) who shall give opportunity to the assessee, consider details / documents as may be supplied by the assessee and pass a needful order in accordance with law.

8. While doing so, we take note of the fact that the precious time of the revenue authorities is lost in giving multiple opportunities to the assessee. Hence we direct the assessee to deposit a cost of Rs. 2000/- to the Prime Minister Relief fund and submit a copy of the receipt to Ld. CIT(A), only thereafter the Ld. CIT(A) shall consider the submissions of assessee. During hearing, we have conveyed this direction to both sides.

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

Order pronounced as per Rule 34 of I.T.A.T. Rules 1963 on 21.07.2022.

Sd/-

(MAHAVIR PRASAD)

Judicial Member

Sd/-

(B.M. BIYANI)

Accountant Member

Indore,

Dated: **21st July, 2022**

Patel/ Sr. P.S.

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

*Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore*

1.	Date of taking dictation	14.7.22
2.	Date of typing & draft order placed before the Dictating Member	15.7.22
3.	Date on which the approved draft comes to the Sr. P.S./P.S.	
4.	Date on which the fair order is placed before the Dictating Member for pronouncement	
5.	Date on which the file goes to the Bench Clerk	
6.	Date on which the file goes to the Head Clerk	
7.	Date on which the file goes to the Assistant Registrar for signature on the order	
8.	Date of dispatch of the Order	