

**IN THE INCOME TAX APPELLATE TRIBUNAL  
INDORE BENCH, INDORE**

**BEFORE Ms. MADHUMITA ROY, JUDICIAL MEMBER &  
SHRI BHAGIRATH MAL BIYANI, ACCOUNTANT MEMBER**

I.T.A. No.415/Ind/2019  
(Assessment Year: 2010-11)

Gurusharan Sakh Sakhari Maryadit[Under Winding-Up] 18/1, River Side Road, Indore (M.P.)	Vs.	Income Tax Officer - 4(2) Indore
<b>PAN No.AABTG2698B</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

<b>Appellant by :</b>	Shri Anil Kamal Garg, A.R.
<b>Respondent by :</b>	Shri P. K. Mitra, CIT.D.R.

<b>Date of Hearing</b>	21.09.2022
<b>Date of Pronouncement</b>	21.09.2022

ORDER

**PER Ms. MADHUMITA ROY - JM:**

The instant appeal filed by the assessee is directed against the order dated 05.11.2021 passed by the Commissioner of Income Tax (Appeals)-II, Indore (in short 'CIT(A)'), arising out of the order dated 28.12.2017 passed by the Income Tax Officer-4(3), Indore under Section 143(3) r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred as to 'the Act') for Assessment Year 2010-11.

2. As submitted by Ld. AR and which is also reflecting in the order passed by the Ld.CIT(A) that the order has been passed ex parte, since, no compliance has been made by the assessee before the first appellate authority. In fact none appeared on behalf of the assessee, neither any written submission was filed for proper adjudication of the matter. In these circumstances, having no other alternative the Ld.CIT(A) decided the matter ex parte confirming the order passed by the Ld.AO. The Ld. Counsel for the assessee has also drawn our attention to the order passed by this Co-ordinate Bench in ITA No.145/Ind/2021 wherein in identical situation keeping in view the principle of natural justice the issue was set aside to the file of the Ld.CIT(A) for deciding the same afresh. The copy of the said order has been submitted before us by the Ld.AR. It is the ultimate prayer of the Ld.AR that the matter be set aside to the file of the Ld.CIT(A), since the assessee needs the matter to be adjudicated afresh upon giving an opportunity of being heard. Such prayer made by the Ld.AR has not been objected seriously by the Ld.DR with all his fairness.

3. Having heard the Ld. Counsel appearing for the parties and having regard to the facts and circumstances of the case and also the order passed by the Co-ordinate Bench in ITA No.145/Ind/2021, we, for the ends of justice and particularly keeping in view the principle of natural justice, think it fit and proper to give further opportunity of being heard to the assessee and hence, the issue is therefore set aside to the file of Ld.CIT(A) with a direction upon him to consider the same afresh and to pass a reasoned order upon granting opportunity of being heard to the assessee and also to consider the

evidence which assessee may choose to file at the time of hearing of the matter.

4. In the result, assessee's appeal is allowed for statistical purposes.

**This Order pronounced in Open Court on 21/09/2022**

Sd/-

(BHAGIRATH MAL BIYANI)  
**ACCOUNTANT MEMBER**

Indore; Dated 21/09/2022

S. K. Sinha, Sr. PS

**TRUE COPY**

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Indore
6. गार्ड फाईल / Guard file.

Sd/-

(MADHUMITA ROY)  
**JUDICIAL MEMBER**

आदेशानुसार/ BY ORDER,

(Dy./Asstt.Registrar)  
**ITAT, Indore**