

**आयकरअपीलीयअधिकरण,इंदौरन्यायपीठ,इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**INDORE BENCH, INDORE**

**BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER**  
**AND**  
**SHRIB.M. BIYANI, ACCOUNTANT MEMBER**

**ITA No.85/Ind/2022**  
**Assessment Year: 2017-18**

Medicaps Education Society, Indore	<b><u>बनम/</u></b> Vs.	CIT(Exemption) Bhopal
(Appellant / Assessee)		(Respondent / Revenue)
<b>PAN: AAAAM 4468 R</b>		
Assessee by	Shri C.P. Rawka & Manasvi Ajmera, ARs	
Revenue by	ShriP.K. Mishra, CIT-DR	
Date of Hearing	16.11.2022	
Date of Pronouncement	20.01.2023	

**आदेश/O R D E R**

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

Feeling aggrieved by revision-order dated 31.03.2022 passed by learned Commissioner of Income-Tax(Exemption),Bhopal [**“Ld. CIT”**]/s 263 of Income-tax Act, 1961 [**“the Act”**], which in turn arises out of assessment-order dated 30.12.2019 passed by learned ITO-(Exemption), Indore[**“Ld. AO”**]/s 143(3) for Assessment-Year [**“AY”**] 2017-18, the assessee has filed this appeal on the grounds raised in Appeal-Memo.

2. Heard the learned Representatives of both sides at length and case-records perused.

3. Briefly stated the facts are such that assessee-society filed its return of income on 30.10.2017 declaring total income at Rs. Nil which was

selected for scrutiny and statutory notices u/s 143(2)/142(1) were issued. Finally, the Ld. AO completed assessment u/s 143(3) at a total income of Rs.1,00,00,000/-. Subsequently, the Ld. CIT examined the record of assessment-proceeding and framed a view that the assessment-order passed by Ld. AO is erroneous in so far it is prejudicial to the interest of revenue, which attracts revisionary-jurisdiction u/s 263. Having framed such a view, the Ld. CIT issued a show-cause notice dated 04.03.2022 calling the assessee to explain as to why the assessment may not be revised in terms of section 263 of the act.

4. Ld. AR submits that by the aforesaid show-cause notice, the case was fixed for hearing on 21.03.2022 but the assessee could not file any reply on that date. Thereafter, the Ld. CIT issued reminder fixing the hearing again on 24.03.2022 and on that date, the assessee filed a reply on ITBA Portal, a copy of the acknowledgement downloaded from the Portal is placed at Page No. 1 of the Paper-Book. Drawing our attention to the same, the Ld. AR demonstrated that the acknowledgement number generated by the system is “416174821240322” of which last 6 digits are “240322” which clearly acknowledges that the assessee filed reply on 24.03.2022. Ld. AR submits that despite assessee’s reply on record on the date of hearing, the Ld. CIT passed revision-order without taking cognizance of the same, by observing as under:

*“5. No compliance was made by the assessee in response to the notice issued to it. Therefore a reminder to this office notice dated 04.04.2022 [DIN: ITBA/REV/M/REV1/2021-22/1041247083(1)] was issued fixed the case for **24.03.2022**. No compliance has been made by the assessee in response to the reminder notice also. Therefore, it was presumed that assessee has nothing to say in the matter and a decision was taken on the basis of records/facts available in this office.”*

5. Ld. AR submitted that the revision-order passed *ex-parte* ignoring the submission of assessee is patently against the mandate of section 263 as

also violative of the principle of justice. Hence the same deserves to be set aside.

6. We have considered the submissions of assessee and perused the records. After a careful consideration, we observe that the Ld. CIT has himself fixed the hearing on 24.03.2022 and the assessee has filed reply on designated ITBA Portal of department on that date. However, the Ld. CIT has passed revision-order without taking cognizance of assessee's reply. Hence, the revision-order passed by Ld. CIT is against the provisions/principles of law and justice. We, therefore, remand this matter back to Ld. PCIT for passing a fresh order after considering the reply filed by assessee. Needless to mention that the Ld. CIT shall also give further opportunities to the assessee as may be necessary for a proper disposal of the revision-proceeding and the assessee shall avail those opportunities without seeking unnecessary adjournments.

**7. Resultantly, this appeal of assessee is allowed for statistical purpose.**

<i>Order pronounced as per Rule 34 of I.T.A.T. Rules, 1963 on 20/01/2023</i>
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<i>Order pronounced in the open court on ...../...../2023</i>
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Sd/-

(CHANDRA MOHAN GARG)  
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)  
ACCOUNTANT MEMBER

**Indore**

दिनांक/Dated : 20.01.2023

Patel/Sr. PS

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	9.1.23
2.	Date of typing & draft order placed before the Dictating Member	9.1.23
3.	Date on which the approved draft comes to the Sr. P.S./P.S.	9.1.23
4.	Date on which the approved draft is placed before other Member	
5.	Date on which the fair order is placed before the Dictating Member for pronouncement	
6.	Date on which the file goes to the Bench Clerk	
7.	Date on which the file goes to the Head Clerk	
8.	Date on which the file goes to the Assistant Registrar for signature on the order	
9.	Date of dispatch of the Order	