

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

**BEFORE MS. MADHUMITA ROY, JUDICIAL MEMBER  
AND  
SHRI B.M. BIYANI, ACCOUNTANT MEMBER**

*(Conducted through Virtual Court)*

**ITA No.57/Ind/2022  
Assessment Year: 2011-12**

M/s Gurusharan Sakh Sahkarita Maryadit (Under winding up), Indore	Vs.	ITO-4(2) Indore
(Appellant / Assessee)		(Respondent/ Revenue)
<b>PAN: AABTG 2698 B</b>		
Assessee by	Shri Arpit Gaur, AR	
Revenue by	Shri P.K. Mitra, CIT-DR	
Date of Hearing	19.12.2022	
Date of Pronouncement	26.12.2022	

**ORDER**

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

Feeling aggrieved by appeal-order dated 27.12.2019 passed by learned Commissioner of Income-Tax (Appeals)-II Indore [**“Ld. CIT(A)”**], which in turn arises out of the assessment-order dated 21.12.2018 passed by learned ITO, 4(2), Indore [**“Ld. AO”**] u/s 144 read with section 147 of the Income-tax Act, 1961 [**“the Act”**] for Assessment-Year 2011-12, the assessee has filed this appeal on the grounds as mentioned in Form No. 36.

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 original return declaring a total income of Rs. 1,98,160/- on 29.09.2011 and the assessment was finalised u/s 143(1). Subsequently, the Ld. AO received an information that the assessee had made huge cash-deposits in bank accounts which must represent unexplained income of assessee, accordingly Ld. AO issued notice dated 12.03.2018 u/s 148 of the act to re-open the completed assessment, but the notice remained unserved upon assessee. Thereafter, the Ld. AO served notice by affixure at the last-known address of assessee but still it remained uncompiled with. Finally, Ld. AO complete assessment u/s 144 read with section 147 of the act vide order dated 21.12.2018 determining total income at Rs. 2,35,40,08,636/-. Aggrieved by order, the assessee filed first 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 12.03.2018 u/s 148 sent by Ld. AO through speed-post was returned back unserved. Going further, the Ld. AR submitted that the notice was served by department through affixture on last-known address only. 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 as apprehended by authorities. 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 but however, prayed the bench to direct the assessee to extend full co-operation and ensure participation in hearings.

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. 2,35,40,08,636/- which is many-fold of the returned income of Rs. 1,98,160/-. 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 order afresh in accordance with law. At the same time, we also direct the assessee to extend full co-operation and participation in the hearings fixed by Ld. CIT(A) and do not seek unnecessary adjournments without justifiable reason.

**8. 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 26.1.2022

**Sd/-**

**(MADHUMITA ROY )**

Judicial Member

**Sd/-**

**(B.M. BIYANI)**

Accountant Member

**Indore,**

Dated : **26.12.2022**

**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	
2.	Date of typing & draft order placed before the Dictating Member	
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	