

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

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

**ITA No.107/Ind/2022**  
**Assessment Year: 2017-18**

Auto House Piplani, Bhopal	<b><u>बनम/</u></b> Vs.	ACIT/DCIT-4(1) Bhopal
(Appellant / Assessee)		(Respondent / Revenue)
<b>PAN: AAQFA 1942 F</b>		
Assessee by	Ms. Nisha Lahoti, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	15.11.2022	
Date of Pronouncement	03.02.2023	

**आदेश/O R D E R**

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

Feeling aggrieved by appeal-order dated 30.03.2022 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi["**Ld. CIT(A)**"], which in turn arises out of assessment-order dated 31.12.2019 passed by learned ACIT/DCIT-4(1), Bhopal["**Ld. AO**"] u/s 143(3) of Income-tax Act, 1961 ["**the Act**"] for Assessment-Year["**AY**"] 2015-16, the assessee has filed this appeal on following grounds:

*“1. That on the facts and circumstances of the case and in law the learned CIT(A) erred in law and not justified in passing the ex parte order hence the unjustified order be kindly quashed.*

*2. That on the facts and circumstances of the case and in law the addition of Rs. 835000 as sustained by learned CIT (A) is not justified*

*and it is not lawful and therefore the unjustified and unlawful addition be kindly deleted.*

*3. That on the facts and circumstances of the case and in law the addition of Rs. 200000 as sustained by learned CIT (A) is not justified and it is not lawful and therefore the unjustified and unlawful addition be kindly deleted.*

*4. That on the facts and circumstances of the case and in law be held that the provisions of section 115BBE are not applicable and therefore the finding with respect to the application of section 115BBE be kindly quashed.*

*5. That on the facts and circumstances of the case and in law the levy of section 234B is unlawful and without jurisdiction and therefore be cancelled.”*

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

3. In Ground No. 1, the assessee claims that the learned CIT(A) has erred in passing *ex-parte* appeal-order. On perusal of appeal-order, it is observed that the Ld. CIT(A) issued notices dated 11.01.2021, 22.12.2021 and 28.02.2022 to the assessee but those notices remained uncompiled with. Thereupon, the Ld. CIT(A) passed a very summary order thus:

*“The additions on various counts have been dealt with cogently by the AO in his aforesaid order. There is no material on record to warrant interference in the order of the AO. In view of the fact that there is no material on record to warrant interference in the order of the AO, the Grounds of Appeal are hereby dismissed.”*

4. Section 250(6) of the Income-tax Act, 1961 provides *“The order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision.”* It is observed that in the present case, the Ld. CIT(A) has dismissed assessee’s appeal summarily without complying with the said provisions of section 250(6) in letter and spirit. That apart, the Ld. AR also prays that the first-appeal was conducted in a faceless manner and the

notices were served on the email-id of the accountant which could not reach assessee leading to non-compliances and, hence, there is no effective opportunity afforded to the assessee before disposal of first-appeal. Therefore, the impugned first appeal-order passed by Ld. CIT(A) deserves to be set aside and the matter is fit for remand to the file of Ld. CIT(A) for a proper adjudication. Ld. DR fairly agrees to this but prays to direct the assessee to represent his case before Ld. CIT(A) and do not seek unnecessary adjournments. In view of this and having regard to the principle of natural justice and fair play, we deem it fit and appropriate to remand this matter back to the file of Ld. CIT(A) for a proper adjudication after giving opportunity of hearing to the assessee, uninfluenced by his earlier decision. We order accordingly. The assessee is also directed to ensure participation in the hearings fixed by Ld. CIT(A) and do not seek unnecessary adjournments. Thus, ground No. 1 is allowed.

5. Since we have remanded this matter to Ld. CIT(A), there is no need to adjudicate other grounds at this stage.

**6. 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 03.02.2023.</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 : 03.02.2023

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	30.1.23
2.	Date of typing & draft order placed before the Dictating Member	30.1.23
3.	Date on which the approved draft comes to the Sr. P.S./P.S.	30.1.23
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	