

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

BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

(Conducted through Virtual Court)

ITA No.349/Ind/2022
Assessment Year: 2014-15

M.P. Vidhyut Mandal Karamchari Sahkarisakh Sansthan Ltd. Indore	<u>बनम/</u> Vs.	ACIT, 4(1) Indore
(Appellant / Assessee)		(Respondent / Revenue)
PAN: AAAAM 0580 C		
Assessee by	Shri Vijay Bansal, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	15.03.2023	
Date of Pronouncement	23.03.2023	

आदेश / O R D E R

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

Feeling aggrieved by appeal-order dated 26.07.2022 passed by learned Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [**“Ld. CIT(A)”**], which in turn arises out of assessment-order dated 19.12.2016 passed by learned ACIT, Circle-4(1), Indore [**“Ld. AO”**] u/s 143(3) of Income-tax Act, 1961 [**“the Act”**] for Assessment-Year [**“AY”**] 2014-15, the assessee has filed this appeal on following grounds:

“1) The learned CIT(A) has erred in law and on facts in dismissing 40591 the appeal against assessment order u/s. 143(3) of the Act dated 19/12/2016 treating it as dismissed for non-prosecution being appellant is not interested in prosecuting its appeal, though appellant has already submitted its application for adjournment of hearing on

15/07/2022, being busy in Statutory audit of the society and engagement of counsel in tax filing activity.

2) The learned CIT(A) has erred in ignoring the facts that of the same assessee other appeals were also pending for identical grounds of appeal i.e for AY 2013-14, AY 2017-18, AY 2018-19 and AY 2019-20, and in all of the cases assessee has responded in the form of application for adjournment or submission of detailed grounds of appeal and documents, hence it cannot be treated that appellant is not interested in prosecution of appeal.

3) The learned CIT(A) has erred in stating that several opportunities of being heard has been duly served on the assessee.”

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

3. On perusal of order appealed against, it is observed that the Ld. CIT(A) has given multiple opportunities of hearing to the assessee but however the assessee did not respond and finding such state of affairs, the Ld. CIT(A) has dismissed the appeal *in limine* for non-prosecution.

4. Ld. AR submits that the assessee is a co-operative society of the employees of State Electricity Board of Madhya Pradesh. He further submits all notices by Ld. CIT(A) were served upon the assessee through e-mail; therefore the assessee could not take note of the same and respond. However, the last notice dated 12.07.2022 by which the hearing was fixed on 18.07.2022 was duly responded by assessee through an adjournment-request dated 15.07.2022, a copy of the same is also filed alongwith the Form No. 36 itself. Ld. AR submits that the Ld. CIT(A) has not taken any cognizance of such adjournment-request of assessee and proceeded to dismiss the appeal. Ld. AR prays that a judicious approach be taken and the present matter may be remanded back to the file of Ld. CIT(A) for a proper adjudication on merit after giving due opportunity of hearing to assessee. Ld. AR submits that the assessee will co-operate with the Ld. CIT(A) and ensure participation for a proper disposal.

5. Ld. DR does not have any objection but prays to direct the assessee to represent his case before Ld. CIT(A) and do not seek unnecessary adjournments.

6. After a careful consideration, we observe that the Ld. CIT(A) has dismissed assessee's appeal without considering the adjournment-request dated 15.07.2022 filed before him. We further observe that 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.". We observe that in the present case, the Ld. CIT(A) has dismissed assessee's appeal without complying with the said provisions of section 250(6). 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 with suitable directions to assessee. In view of this and also 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. 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.

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 23/03/2023.</i>

<i>Order pronounced in the open court on/...../2023.</i>
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Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : .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	
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 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	