

आयकरअपीलीय अधिकरण, जयपुरन्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL,
JAIPUR BENCHES,"SMC" JAIPUR

श्रीसंदीपगोसाई,न्यायिकसदस्य एवंश्रीराठोडकमलेशजयन्तभाई, लेखा सदस्य के समक्ष
BEFORE: SHRI SANDEEP GOSAIN, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकरअपील सं./ITA No. 434/JP/2022
निर्धारणवर्ष/Assessment Year :2010-11

Shri Laxman Singh Chahar B.R. Compounder Ki Gali Devipura, Sikar	बनाम Vs.	The ITO Ward-4 Sikar
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: ACCPG 2501 J		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri P.C. Parwal , CA
राजस्व की ओर से / Revenue by: Mrs. Monisha Choudhary, Addl. CIT-DR

सुनवाई की तारीख / Date of Hearing : 15/02/2023
उदघोषणा की तारीख / Date of Pronouncement: 28 /03/2023

आदेश / ORDER

PER: SANDEEP GOSAIN, JM

This appeal filed by the assessee is directed against order of the ld. CIT(A) dated 23-11-2022, National Faceless Appeal Centre, Delhi [hereinafter referred to as (NFAC)] for the assessment year 2010-11 wherein the assessee has raised the following grounds of appeal.

“1. The ld. CIT(A), NFAC has erred on facts and in law in dismissing the appeal filed by the assessee without considering the

submission dated 30-07-2021 filed by the assessee and thereby not deciding the grounds of appeal on merit.

2. That once the ld. CIT(A), NFAC has not decided the grounds of appeal on merit even when the written submission alongwith the paper book was filed before it, Hon'ble ITAT is prayed to decide the appeal on merit instead of setting aside the matter to ld. CIT(A).

2.1 At the outset of the hearing, the Bench noted that the ld. AR of the assessee has taken a specific ground that ld. CIT(A) has erred on facts and in law in dismissing the appeal filed by the assessee without considering the submission dated 30-07-2021 filed by the assessee and thereby not deciding the grounds of appeal on merit.

2.2 On the other hand, the ld. DR appearing on behalf of the Revenue supported the order of the ld. CIT(A).

2.3 We have heard both the parties and perused the materials available on record including the order passed by the ld. CIT(A). While turning to the impugned order dated 23-11-2022 passed by the ld. CIT(A), we noticed that the ld. CIT(A) had not adjudicated upon the grounds of appeal raised by the assessee specifically on merits. The only reason mentioned by the ld. CIT(A) while dismissing the appeal of the assessee is that *“written submission dated 30-7-2021 available on record is not persuasive enough to delete the addition disputed in this appeal.”* It is noted

that only by stroke of pen, the Id. CIT(A) dismissed the appeal filed by the assessee. In our view, the Id. CIT(A) was under an obligation to decide the grounds appeal raised by the assessee by passing a well reasoned and speaking order which has not been done by the Id. CIT(A) in the present case. Even otherwise the dictum of Section 250(6) of the Income Tax Act, 1961 specifically states that the order of the Commissioner (Appeals) disposing of the appeal shall state the points for determination, the decision thereon and the reason for the decision. Therefore, looking to the facts of the present case, we find that the Id. CIT(A) has passed the impugned order in contravention of the specific direction given in Section 250(6) of the Act. Even otherwise, the reasoning for reaching to a conclusion is the foundation and hard bit of an order and in case conclusion is drawn without recording specific reasons then in our view the said order of Id. CIT(A) is not sustainable in the eyes of law. With these observations, we are of the view that the matter needs to be re-looked at the end of the Id. CIT(A) and Id. CIT(A) is under an obligation to pass a well reasoned speaking order taking into consideration the grounds raised by the assessee before him. Thus, we restore the matter to the file of the Id. CIT(A) with the direction to pass a well reasoned speaking order by providing reasonable opportunity of being heard to the assessee. Accordingly, the appeal of the assessee is allowed for statistical purposes.

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3.0 In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 28/03/2023.

Sd/-

(राठोडकमलेशजयन्तभाई)
(Rathod Kamlesh Jayantbhai)
लेखासदस्य / Accountant Member

Sd/-

(संदीप गोसाई)
(Sandeep Gosain)
न्यायिकसदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 28/03/2023

*Mishra

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- Shri Laxman Singh Chahar, Sikar
2. प्रत्यर्थी / The Respondent- The ITO, Ward-4, Sikar
3. आयकरआयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्डफाईल / Guard File (ITA No. 434/JP/2022)

आदेशानुसार / By order,

सहायकपंजीकार / Asstt. Registrar