

आयकर अपीलिय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "SMC" JAIPUR

डा० एस. सीतालक्ष्मी, न्यायिक सदस्य एवं श्री राठोड कमलेश जयन्तभाई, लेखा सदस्य के समक्ष  
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA No. 440 to 442/JPR/2022  
निर्धारण वर्ष/Assessment Year :2009-10

Om Prakash Kharol 68A, Chtrakoot Nagar, Airport Road, Jagatpura, Jaipur.	बनाम VS.	ITO, Ward-4(3), Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: ALAPK 2996 G		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारिती की ओरसे/ Assesseeby : None

राजस्व की ओरसे/ Revenue by: Ms. Monisha Choudhary, Addl. CIT

सुनवाई की तारीख/ Date of Hearing :15/03/2023

उदघोषणा की तारीख/ Date of Pronouncement: 28/03/2023

आदेश/ORDER

PER: DR. S. SEETHALAKSHMI, J.M.

These are three appeals filed by the assessee aggrieved from the order of the National Faceless Appeal Centre, Delhi, [herein after referred to as "NFAC/CIT(A)"], for the assessment year 2009-10 all dated 11.10.2022 respectively.

2. These are three appeals one is against the quantum and two for consequential penalty orders. Since the assessment year and assessee is same for all three appeals same is decided by this consolidated order.

3. None appeared on behalf of the assessee however, the Bench decided to proceed the matter on merit based on the materials available on record, concerning the issue in question. At the outset of hearing, the Bench observed that there is delay of 11 days in filing the appeal by the assessee.

4. We have heard ld. DR and perused the materials available on record. The Bench Noted that the assessee for condonation of delay of 11 days has merit and we concur with the submission of the ld DR. Thus the delay of 11 days in filing the appeal by the assessee is condoned in view of the decision of Hon'ble Supreme Court in the case of Collector, land Acquisition vs. Mst. Katiji and Others, 167 ITR 471 (SC) as the assessee is prevented by sufficient cause.

5. The assessee has marched this appeal on the following grounds of appeal:-

*"1. That on the facts and in circumstances of the case as well as in law, the Learned CIT(A)-II, Jaipur has grossly erred in confirming the addition made by the Assessing Officer, Ward-4(3, Jaipur on the basis of AIR information Rs. 1103000/- as unexplained income, whereas the appellant had deposited the same amount from his and family members past saving. Thus, an addition of Rs. 1103000/- confirmed by the CIT(A)-II, Jaipur deserves to be deleted.*

6. In ITA No. 442/JPR/2022, the brief facts of the case are that the assessee is an individual. On the basis of AIR information received from the DIT (I&CI), the

assessee deposited cash of Rs. 11,03,000/- in saving bank account. The assessee had not filed his return of income for during the year. The case was re-opened by u/s 147 of the Act and accordingly, notice u/s 148 of the Act, dated 11.03.2016 was issued and served since there was non compliance of notices from side of the assessee. The A.O completed the assessment order u/s. 144 r.w.s 147 of the Act, on 28.11.2016 assessing the total income at Rs. 11,03,000/-, Aggrieved by this, assessee is in appeal.

7. The assessee has filed the appeal before the Id. CIT(A) who after hearing the contention of the assessee dismissed the appeal of the assessee by giving his following relevant findings on the issues:-

“4.1 In view of the above, it appears that the non-appearance to notices is deliberate as all the notices have been duly served upon the appellant on the registered email account. No response has been received from the appellant till date. It is reasonable to infer from the continued non compliance that the appellant is not serious to pursue its appeal.

4.2 Hon'ble Supreme Court in the case of CIT vs. B.N. Bhattacharjee and another, 118 ITR 461(SC) observed that preferring an appeal means more than formally filing it but effectively prosecuting it. Hon'ble MP high Court in the case of Estate of late Tokojirao Holkar vs. CWT, (1997) (223 ITR 480) (M.P.) dismissed the reference in default and for not taking necessary steps. Similar view has been taken by ITAT, Delhi Bench in the case of CIT vs. Multiplan India (P) Ltd. )1991) (38 ITD 320). Consider the above, it appears that the

appellant is not interested in prosecuting its appeal. Therefore, the appeal filed by the appellant is dismissed for non prosecution.”

8. We have heard the ld. DR and perused the material available on record. The ld. AR for the assessee not present at the time of hearing. The ld. DR contented that the assessee has not appeared before the ld. CIT(A). Several notices were issued giving opportunities of being heard to the assessee, which were duly served upon the assessee through registered email. No response was received till date. During the appellate proceedings, it was noted that the assessee has not appeared and nor filed any written submissions. Before the ld. CIT(A) on account of non appearance/response has no option left to decide the case as non prosecution. Even before us the assessee was not present and nor file any written submissions in spite of notice sent to the assessee through registered post. Moreover the assessee has not controverted anything in the appeal as well as in the appellate proceedings, therefore, we confirmed the findings of the ld. CIT(A). Hence, the appeal of the assessee is dismissed.

9. The fact of the case in ITA No. 442/JPR/2022 is quantum appeal and the case in ITA No. 440 & 441/JPR/2022 are consequential penalty appeal and the

Bench noticed that the issues raised by the assessee in this appeal No. 442/JPR/2022 is equally similar on set of facts and grounds ITA No. 440 & 441/JPR/2022. Therefore, it is not imperative to repeat the facts and various grounds raised by assessee. Hence, the bench feels that the decision taken by us in ITA No. 442/JPR/2022 for the Assessment Year 2009-10 shall apply mutatis mutandis in the ITA No. 440 & 441/JPR/2022.

In the result, all the appeals of the assessee are dismissed.

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

Sd/-

(राठोड कमलेश जयन्तभाई )  
(RATHOD KAMLESH JAYANTBHAI)  
लेखा सदस्य / Accountant Member

Sd/-

(डॉ.एस.सीतालक्ष्मी)  
(Dr. S. Seethalakshmi)  
न्यायिकसदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 28/03/2023

\*Santosh

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- Om Prakash Kharol, Jaipur
2. प्रत्यर्था / The Respondent- ITO, Ward 4(3), Jaipur
3. आयकरआयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्डफाईल / Guard File (ITA No. 440 to 442/JPR/2022)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar