

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

BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No.432/Ind/2022
(Assessment Year:2011-12)

Shafqat Ullah Farooqi A-24, Housing Board Colony Koh e fiza, Bhopal	Vs.	ITO 4(4) Bhopal
(Appellant / Assessee)		(Respondent/ Revenue)
PAN: AABPF0615K		
Assessee by	None	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	18.04.2023	
Date of Pronouncement	18.04.2023	

O R D E R

Per Vijay Pal Rao, JM:

This appeal by the assessee is directed against the order dated 26.10.2020 of Ld. Commissioner of Income Tax (Appeals) (in short Ld. CIT(A), National Faceless Appeal Centre, Delhi for Assessment Year 2011-12.

2. None has appeared on behalf of the assessee and this appeal was called for hearing despite the notice issued to the assessee sent through RPAD as well as e-mail on the e-mail ID given in the form no.36.

3. Since Ld. CIT(A) has dismissed the appeal of the assessee for non-prosecution therefore, the Bench proposes to hear and disposed of this appeal *ex-parte*. The assessee has raised following grounds:

1. That the notice u/s 148 dated 26/03/2018 served to the appellant on 02/08/2018 be held to be invalid and bad in law. The said notice and the consequent assessment order u/s 144 r.w.s. 147 be therefore granted.

2. That the assessment order made without complying with the provisions of section 143(2) be held to be bad in law and be quashed.

3. That the income assessed at Rs.30.74.000/- be held to be bad, unjustified and exorbitant on the facts and in the circumstances of the case.

4. In the alternative and without prejudice to the grounds stated above the assessment of total income at Rs.30,74,000/- be held to be high and excessive and be reduced.”

4. We have heard the Ld. DR and carefully perused the impugned orders of the authorities below. The assessee is an individual and did not file any return of income u/s 139(1) for the year under consideration. The AO reopened the assessment on the basis of the information regarding cash deposit of Rs.61,48,000/- in the bank account of the assessee. In response to the notice u/s 148 of the Act the assessee objected to the initiation of the reassessment proceedings on the ground that the notice issued u/s 148 is barred by limitation and bad in law. The AO rejected the objections of the assessee and completed the assessment u/s 144 r.w.s. 147 as there was no return of income filed by the assessee even in response to notice u/s 148 of the Act. The assessee challenged the assessment order before the Ld. CIT(A) but due to none appearance on behalf of the assessee before the Ld. CIT(A) the appeal by the assessee was dismissed vide impugned order in para 3 as under:

3. Notice u/s 250 of the I.T. Act was issued to the appellant on 05.03.2022 asking the appellant to file details in support of the grounds of appeal on or before 21.03.2022. However, the appellant did not reply to the notice issued. Accordingly, 2nd notice u/s 250 of the I.T. Act was issued on to the appellant on 03.10.2022 asking the appellant to file details in support of the grounds of appeal on or before 18.10.2022. However, appellant again did not reply to the 2nd notice too till date. In absence of details in support of GOA filed appeal cannot be decided. The non-compliance to the 2 notices issued

show that the appellant is not interested in pursuing his appeal. The order of AO is upheld and the appeal stands dismissed.

5. Thus, it is clear that the Ld. CIT(A) has dismissed the appeal of the assessee summarily on the ground of non-prosecution and has not adjudicated the grounds raised by the assessee on merits. Therefore, the impugned order of the Ld. CIT(A) is not in accordance with the provisions of section 150(6) of the Income Tax Act. Accordingly, in the facts and circumstances of the case when the Ld. CIT(A) has not decided the appeal of the assessee on merits and some of the legal grounds have not been adjudicated the impugned order of the Ld. CIT(A) is set aside and the matter is remanded back to the record of the Ld. CIT(A) for deciding the same afresh on merits of each grounds raised by the assessee after giving one more opportunity of hearing.

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

The Order is pronounced in the open court after conclusion of the hearing on 18.04.2023 and the same is reduce in writing and signed on the date indicated below.

Sd/-

(B.M. BIYANI)
Accountant Member

Indore, 19.04.2023

Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

Sd/-

(VIJAY PAL RAO)
Judicial Member

By order

*Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore*