

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

श्री संदीप गोसाई, न्यायिक सदस्य के समक्ष  
BEFORE: Hon'ble SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 286/JP/2021  
निर्धारण वर्ष / Assessment Year : 2011-12

Shri Manoj Jain F-946 (D), Road No. 14, VKI Area Jaipur	बनाम Vs.	The DCIT Circle-4 Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: ABPPJ 0403 N		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Rajvir Singh, Staff Member of A/R  
राजस्व की ओर से / Revenue by: Mrs. Monisha Choudhary, Addl. CIT

सुनवाई की तारीख / Date of Hearing : 15/03/2023  
उदघोषणा की तारीख / Date of Pronouncement: 01/05/2023

आदेश / ORDER

PER: SANDEEP GOSAIN, JM

This appeal filed by the assessee is directed against order of the Id. CIT(A), National Faceless Appeal, Centre (for short "NFAC") Delhi dated 28-09-2021 for the assessment year 2011-12 wherein the following grounds have been raised by the assessee.

"1. Under the facts and circumstances of the case, the proceedings initiated u/s 148 of the I.T. Act, 1961 is void ab initio deserves to be quashed because the basis of reasons recorded for reopening of the case is not valid.

2. The Id. CIT(A) has grossly erred in confirming the action and finding of AO regarding re-computing the loss from speculation business of Rs.45,49,103.75 instead of Rs.76,35,727/- as declared by the appellant.

3. The Id. CIT(A) has grossly erred in confirming the action of AO on the basis of information submitted by different persons in response to notice u/s 133(6) without giving opportunity of being heard which is against the principles of natural justice.’’

2.1 At the outset of hearing, the Bench noted that there is delay of 04 days in filing the appeal for which the assessee has filed an application dated 03-10-2022 praying therein that due to COVID-10 Pandemic, this delay took place in late filing the appeal for which the assessee filed an affidavit with the prayer to condone the delay.

2.2 On the other hand, the Id. DR objected to such delay of late filing the appeal but submitted that the Court may decide the issue as deem fit and proper in the case.

2.3 We have heard the both the parties and perused the materials available on record. It is noticed that COVID 19 pandemic has affected the life of human being and in that situation the Court had granted relief to the party who had prevented by this sufficient cause. Hence, the delay so made by the assessee in filing the appeal is condoned.

3.1 Further, it is noted that the ld. AR of the assessee vide application dated 12-05-2022 has filed the additional evidences under Rule 29 in the case of the assessee Shri Manoj Jain praying as under:-

“In connection with the subject cited above, it is humbly submitted that during the course of appellate proceedings before Hon’ble CIT(Appeals), the appellant tried to obtain the detailed turnover/levies Report of MCX Futures and NCX Futures from the stock broker – Anand Rathi but as the relevant documents pertain to 9-10 years back i.e. F.Y. 2010-11, hence the appellant tried a lot to get them within time but unable to get the same within time. Therefore, could not submit the relevant evidence before the Hon’ble CIT(Appeals). It is humbly submitted that the appellant tried very hard to get the documents well within the time period but even after repeated efforts he received the documents after disposal of case by Hon’ble CIT(Appeals).

The case of the appellant falls within the circumstances specified under Rule 29 of the Income Tax Act (Appellate Tribunal) Rules 1963.

Therefore, your honour is requested to admit the additional evidences annexed herewith and place the same on record for disposal of the relevant appeal.”

3.2 The Bench has taken into consideration the application of the assessee relating to admission of additional evidences but does not find any adequate reason to admit the same on the ground that these additional evidences could have been placed either before the AO during assessment proceedings or before the ld. CIT(A) at appellate proceedings. It is worthwhile to mention that the assessment order was passed by the AO on 24-12-2018 whereas the appellate order was passed

by the ld. CIT(A) 28-09-2021. Thus the Bench conclusively noted that the ld. AR of the assessee failed to substantiate appropriate reason for admission of additional evidences. In this situation, the Bench does not find any merit in the submissions of the assessee and thus the appeal of the assessee is dismissed in view of the findings of the ld. CIT(A).

4.0 In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 01/05/2023.

Sd/-  
(संदीप गोसाईं)  
(Sandeep Gosain)  
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 01 /05/2023

\*Mishra

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. The Appellant- Shri Manoj Jain, Jaipur
2. प्रत्यर्थी / The Respondent- The DCIT, Circle-4, Jaipur
3. आयकर आयुक्त / The ld CIT
4. आयकर आयुक्त(अपील) / The ld CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 286/JP/2021)

आदेशानुसार / By order,

Asstt. Registrar