

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. 03/JP/2023  
निर्धारणवर्ष/AssessmentYear :2012-13

Smt. Sunita Gurjar Gyan Prakash Mohalla Milakpur Goojar, Alwar-301 018	बनाम Vs.	The ITO Ward -Bhiwadi Alwar
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: DFTPG 4420 M		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Mahendra Gargieya, Adv. &  
Shri Devang Gargieya. Adv.

राजस्व की ओर से / Revenue by: Ms. Chanchal Meena, Addl. CIT-DR

सुनवाई की तारीख / Date of Hearing : 28/03/2023

उदघोषणा की तारीख / Date of Pronouncement: 03/05/2023

आदेश / ORDER

PER SANDEEP GOSAIN, JM

The assessee has filed an appeal against the order of the Id. CIT(A), National Faceless Appeal Centre, ("for short NFAC"), Delhi dated 07-11-2022 for the assessment year 2012-13 raising therein following grounds of appeal.

"1. The impugned order u/s 147/144 dated 18-09-2019 is bad in law and on facts of the case, for want of jurisdiction and various other reasons and hence the same kindly be quashed.

2. That the Id.CIT(A) erred in law as well as on the facts of the case in passing the impugned order in a haste without

affording adequate and reasonable opportunity of being heard. The impugned order having been framed in gross breach of natural justice, hence the same kindly be quashed or alternatively be restored to the file of the Id. CIT(A).

3. The Id. CIT(A) erred in law as well as on the facts of the case in confirming addition made u/s 69B of the Act at Rs.18,04,980/- as undisclosed investment in purchasing immovable property. The addition so made, being totally contrary to the provisions of law and facts of the case. Kindly be deleted in full.

2.1 Brief facts of the case are that as per information available with the Department, it is noticed by the AO that the assessee had purchased immovable property alongwith their co-owner for value at Rs.2.00 crores and also incurred an amount of Rs.18,10,180/- as stamp duty expenses and other charges. The AO noted that total investment was to the tune of Rs.2,18,10,180/- during the A.Y. 2012-13 wherein assessee's share of investment in purchase of above property comes to Rs.18,04,980/-. The AO on verification of record observed that the assessee had not filed her ITR for the relevant year for which assessee was directed to by the AO to file the reply regarding the transaction made in the property but it was not complied with and thus the source of investment for the above transaction could not be verified which resulted into escapement of assessment to the tune of Rs.18,04,980/-. Hence the AO made an addition of Rs.18,04,980/- in the hands of the assessee Smt. Sunita Gurjar by observing as under:-

“The Department has concrete and enough evidence that the assessee had purchased immovable property alongwith other co-owner for value at Rs.2.00 crores and also incurred an amount of Rs.18,10,180/- as stamp duty expenses and other charges. Thus, total investment was made of Rs.2,18,10,180/- during the financial year 2011-12 wherein assessee’s share of investment in purchase of above property comes to Rs.18,04,980/-. This means that the assessee had invested Rs.18,04,980/- in purchase of immovable property whereas the assessee had not filed her ITR, for the relevant year. Plenty of notices were also issued to the assessee but no compliance were made. Therefore, in the absence of any explanation/ evidences filed by assessee, the source of amount invested in respect of purchase of property remained unverified and the same is treated as unexplained investment u/s 69B of the I.T. Act, 1961.

In the light of above discussion, an amount of Rs.18,04,980/- is hereby added u/s 69B of the I.T. Act, into the total income of the assessee.”

2.2 In first appeal, the Id. CIT(A) dismissed the appeal of the assessee by observing as under:-

“4.1 Addition was made u/s 69B on account of unexplained investment.

4.2 In statement of facts appellant pleads that purchase and sale of land was a result of family settlement in which she had not received any consideration. No proof as to above has been filed despite several reminders.

4.3 As a result, there appears to be no reason to doubt the view taken by the AO.

4.4 Appeal is hence without merit and the same is dismissed.”

2.3 During the course of hearing, the ld. AR of the assessee prayed that the ld. CIT(A) has passed the ex-parte order and the assessee was not provided adequate opportunity of being heard. Thus the assessee may be provided one more opportunity to advance his arguments/ submissions before the AO in the interest of equity and justice.

2.3 On the other hand, the ld. DR supported the orders of the lower authorities praying that the assessee was provided various opportunities by the lower authorities to argue the case but the assessee was lethargic and unserious to pursue her case and thus the order passed by the ld. CIT(A) should be sustained.

2.4 We have heard both the parties and perused the materials available on record. The Bench observed that the assessee was really lethargic and unserious in pursuing her case in spite of providing various opportunities by the ld. CIT(A) and the AO as mentioned in their orders. It is undisputed fact that the assessee was granted several authorities either by the ld. CIT(A) or by the AO to argue the case but the assessee remained non-cooperative and negligent in pursuing her case on the dates of hearing of the appeal for which the Bench awards cost of Rs.5,000/- and the same may be deposited in the Prime Minister Relief Fund and copy of the same shall be submitted to the AO for proof and thus the appeal of the assessee is restored to the file of the AO to decide it afresh by providing one more opportunity of hearing, however, the assessee will not seek any adjournment on frivolous

ground and remain cooperative during the course of assessment proceedings before the AO. Thus the appeal of the assessee is allowed for statistical purposes.

2.5 Before parting, we may make it clear that our decision to restore the matter back to the file of the A.O. shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by A.O. independently in accordance with law.

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

Order pronounced in the open court on 03/05/2023.

Sd/-

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

Sd/-

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

जयपुर / Jaipur

दिनांक / Dated:- 03 /05/2023

\*Mishra

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- Smt. Sunita Gurjar, Alwar
2. प्रत्यर्था / The Respondent- The ITO, Ward 2(4), Jaipur
3. आयकरआयुक्त / The Id CIT
5. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्डफाईल / Guard File (ITA No. 03/JP/2023)

आदेशानुसार / By order,

सहायकपंजीकार / Asstt. Registrar