

आयकरअपीलीय अधिकरण, जयपुरन्यायपीठ, 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. 80/JPR/2023  
निर्धारणवर्ष/Assessment Year : 2010-11

|   |             |                               |
|---|-------------|-------------------------------|
| Atul Taksali<br>937 Taksali Bhawan, Opp. SBBJ<br>Chaura Rasta,<br>Jaipur. | बनाम<br>Vs. | ITO,<br>Ward-1(2),<br>Jaipur. |
| स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AEQPT 7728 E                       |             |                               |
| अपीलार्थी/ Appellant  |             | प्रत्यर्थी/ Respondent        |

निर्धारिती की ओरसे/ Assesseeby : Shri Atul Taksali (Self)  
राजस्व की ओरसे/ Revenue by: Ms. Monisha Choudhary (Addl.CIT)

सुनवाई की तारीख/ Date of Hearing :23/05/2023  
उदघोषणा की तारीख/ Date of Pronouncement: 26/05/2023

आदेश/ORDER

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

This appeal is 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 2010-11dated 26.12.2022,which in turn arises from the order passed by the ITO, Ward-1(2), Jaipur passed under Section 144/147of the Income Tax Act, 1961 (in short 'the Act') dated 27.12.2017.

2. The assessee has raised the following ground:-

*“1. On the facts and circumstances of the case the learned CIT(Appeals), National Faceless Appeals Centre, grossly erred in dismissing the appeal of assessee and confirming the addition of Rs. 29,93,610/- made by the AO on account of cash depositing in saving account, the amount was deposited out of retails sale proceeds of mobiles and mobile parts situated in Delhi, without giving proper opportunity of hearing heard to assessee.*

*2. On the facts and circumstances of the case the learned CIT(Appeals) has not given proper opportunity of hearing heard as assessee has applied for adjournment on 23.12.2022 for 30.12.2022 but no reply was given and assessee has also submitted partial reply on portal on 26.12.2022 also but neither provided date nor consider the reply of assessee by CIT(Appeals) national faceless appeals.*

*3. Appellant crave leaves to add, amend or alter all or any of the grounds of appeal on or before the date of hearing.”*

3. The brief facts of the case are that the assessee is an individual and did not filed its return of income for the assessment year 2010-11 under appeal on receipt of information that the assessee has deposited cash amounting to Rs. 29,93,610/- with ICICI bank Limited, J.L.N. Marge, New Delhi.. But the financial year 2009-10 notice was issued u/s 148 of the Act on 29.03.2017 requiring the assessee file the return of income but he has not complied with the notice issued u/s 148 of the Act. Subsequently, notice u/s 142(1) of the Act was issued by letter dated 17.11.2017 along with show cause letter No. 1102 dated 17.11.2017 which was served on the assessee. In response, the assessee had not complied with the notice issued

nor any written submission filed till date. The assessee was asked to explain the source of cash deposit in his bank account but since the assessee had not complied with the notices issued nor any written submission filed the AO, completed the assessment order passed ex-parte u/s 144 of the Act material available on record, completed by making addition of Rs. 29,93,610/- being unexplained money.

4. Being aggrieved the order of the AO, the assessee filed an appeal before the ld. CIT(A). The ld. CIT(A) observed that notices were issued on 23.11.2022 and 08.12.2022 requiring the assessee to file the details in support of ground taken by the assessee. Since the assessee has not complied with the notices issued by the ld. CIT(A) but he has dismissed the appeal of the assessee ex-parte order.

5. Per contra, the ld. DR relied upon the orders of the lower authorities.

6. We have heard the rival contention and perused material available on record. We observed that the Ld. AR submits that the assessee has not been provided adequate opportunity of being heard at the first appellate stage, the assessee could not attend the hearing, which has led to the passing of ex-parte

order by Ld. CIT(A). Further, the Ld. AR prays that the matter may be remanded to the file of Ld. CIT(A) for a proper adjudication on merit after giving due opportunity of hearing to the assessee. The Ld. DR does not have any objection but prays to direct the assessee to represent his case before Ld. CIT(A) and do not seek unnecessary adjournments. In view of such pleadings by parties and also having regard to the principle of natural justice and fair play, we deem it fit and appropriate to remand this matter back to the file of Ld. CIT(A) for a proper adjudication after giving opportunity of hearing to the assessee, uninfluenced by his earlier decision. We order accordingly. The assessee is also directed to ensure participation in the hearings fixed by Ld. CIT(A) and do not seek unnecessary adjournments.

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

Order pronounced in the open court on 26/05/2023.

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:- 26/05/2023

\*Santosh

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- Atul Taksali, Jaipur.

2. प्रत्यर्थी / The Respondent- ITO, Ward-1(2), Jaipur.
3. आयकरआयुक्त / The Id CIT
4. आयकर आयुक्त(अपील) / The Id CIT(A)
5. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्डफाईल / Guard File (ITA No. 80/JPR/2023)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar