

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.15/Ind/2023
(Assessment Year:2017-18)

Prakash Jain 14, Shradha Suman Apartment Ratlam	vs.	ITO-2 Ratlam
(Appellant / Assessee)		(Respondent/ Revenue)
PAN: ABQPJ6013K		
Assessee by	Shri Pankaj Shah & Soumya Bumb, ARs	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	24.05.2023	
Date of Pronouncement	26.05.2023	

O R D E R

Per Vijay Pal Rao, JM:

This appeal by the assessee is directed against the order dated 22.11.2022 of Ld. Commissioner of Income Tax (Appeals) (in short Ld. CIT(A), National Faceless Appeal Centre, Delhi for Assessment Year 2017-18. The assessee has raised following grounds of appeal:

“1. On the facts and circumstances of the case and in law, the learned Commissioner of Income tax (Appeals)-1 ("CIT(A)") erred in exparte dismissing the appeal of the Assessee and thereby confirming the addition made by the Assessing Officer. The Appellant prays that the said order be set aside to the CIT (A) for hearing on merits.

2. On the facts and circumstances of the case and in law the learned CIT(A) erred in confirming the action of Assessing Officer in making addition of Rs. 11,50,000/-on account of unexplained money. The appellant prays that the addition be deleted.

3. The Appellant craves leave to add to, alter and/or amend all or any of the foregoing grounds of appeal.

2. The Ld. AR of the assessee has submitted that the Ld. CIT(A) has passed *ex-parte* order due to non-compliance of the notices. He has further submitted that the assessee has given the e-mail address for the notice in form 35 at serial no.17 however the Ld. CIT(A) has send notice to a different e-mail ID and therefore, those notices could not be replied by the assessee. He has further submitted that the Ld. CIT(A) has not decided the appeal of the assessee on merits but has confirmed the assessment order passed u/s 144 for want of compliance on the part of the assessee. Hence he has pleaded that the matter may be remanded to the record of the Ld. CIT(A) for deciding the same afresh after giving the appropriate opportunity of hearing to the assessee.

3. On the other hand, Ld. DR has raised no serious objection if the matter is remanded to the record of the Ld. CIT(A) for fresh adjudication.

4. We have considered the rival submission and relevant material on record. We find that the assessee has given e-mail ID in form No.35 specifically for the notices at serial no.17 of the form no.35 whereas the ld. CIT(A) issued the noticed at a different e-mail ID as record in para 3.1 of the impugned order. Though the said e-mail ID is also part of the form 35 but it was not for the purpose of issuing the notice. We further note that Ld. CIT(A) has not decided the appeal of the assessee on merits but the same is dismissed summarily in para 7 as under:

“During the appellate proceedings, the appellant has only submitted submission in the form of 'Statement of Facts'. After that neither he has replied to hearing notices nor submitted any documentary evidence/information to prove his side. Sufficient and adequate opportunities were afforded to the appellant as indicated at table at page no 1. No reply whatsoever has been submitted by the appellant. Even the assessment was completed under Section 144 of the Income Tax Act, 1961 due to non-compliance on the part of the appellant. It can be safely presumed that the appellant is not interested in pursuing his appeal. Therefore, the undersigned sees no reason to

interfere with the orders of the Assessing Officer. Thus, the appeal raised by the appellant is dismissed.”

5. It is manifest from the impugned order that the Ld. CIT(A) has not passed a speaking order deciding the issues/grounds raised by the assessee on merits and analysing the facts and other contentions raised by the assessee. Accordingly in the facts and circumstances of the case and in the interest of justice, we set aside the impugned order of the Ld. CIT(A) and the matter is remanded to the record of the Ld. CIT(A) for fresh adjudication on merits after giving appropriate opportunity of hearing to the assessee.

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

Order pronounced in the open court on 26.05.2023.

Sd/-
(B.M. BIYANI)
Accountant Member

sd/-
(VIJAY PAL RAO)
Judicial Member

Indore, 26.05.2023

Patel/Sr. PS

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

By order

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