

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

श्री संदीप गोसाई, न्यायिक सदस्य एवं श्री राठौड़ कमलेश जयंतभाई, लेखा सदस्य के समक्ष
BEFORE: SHRI SANDEEP GOSAIN, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA No. 232/JP/2023
निर्धारण वर्ष/Assessment Year : 2011-12.

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| Ms Mohita Sharma, Ramanand Goyal & Co., 801, Singature Tower, DC2, Lalkothi, Behind Apex Bank, Tonk Road, Jaipur. | बनाम Vs. | Income Tax Officer, Ward 4(1), Jaipur. |
| स्थायी लेखा सं./जीआईआर सं./PAN/GIR No. CPHPS 8678 J | | |
| अपीलार्थी/ Appellant | | प्रत्यर्थी/ Respondent |

निर्धारिती की ओर से/ Assessee by : None

राजस्व की ओर से/ Revenue by : Smt. Monisha Choudhary (Addl.CIT)

सुनवाई की तारीख/ Date of Hearing : 30/05/2023
उदघोषणा की तारीख/ Date of Pronouncement: 7/06/2023

आदेश / ORDER

PER SANDEEP GOSAIN, J.M.

This appeal by the assessee is directed against the order dated 15.02.2023 of Id. CIT (Appeals), National Faceless Appeal Centre (NFAC), Delhi passed under section 250 of the IT Act, 1961. The assessee has raised the following grounds :-

- "1. On facts and circumstances of the case and in law Ld. CIT (A) erred in dismissing appeal.
2. That the learned CIT (A), while deciding the appeal of the assessee has failed to apply the provision of section 250(6) of the Income Tax Act when he simply disposed of the appeal ex- parte without disposing of the grounds raised before him, and as such, same is unsustainable in law and liable to be set aside.

3. That on facts and In law, the learned CIT(A) ought to have decided appeal on merits instead of dismissing the appeal for non-attendance.
 4. That the learned CIT (A) has erred in ignoring the judicial pronouncement of the Ahmedabad Bench of the Tribunal in the case of Gujarat Themis Biosyn Ltd. reported in 74 ITD 339, wherein it has been held that, section 250(6) is obligatory for CIT (A) and thus CIT (A) should pass a speaking order stating points raised in appeal, his reasons thereon and reasons for such decisions.
 5. That the Ld. CIT(A) has erred in law as well as on the facts of the case in confirming the additions of Rs.7,25,000/- and treating the same as unexplained investment u/s 69 of the IT Act by the Ld. AO, based upon suspicions and surmises.
 6. That the appellant-assessee carves leave to add to and or alter and or modify any ground or grounds before and/or during the hearing of the appeal.”
2. None appeared on behalf of the assessee when the case was called for hearing. However, an application for seeking adjournment was filed by the assessee but when the case was taken up, nobody appeared on behalf of the assessee. Therefore, in the absence of assessee as well as her authorized representative, the application for seeking adjournment was dismissed. One of the facts, while rejecting the application for adjournment was that assessee had always remained negligent and non cooperative as the assessment order in this case was passed under section 147 read with section 144 of the IT Act, 1961, as the assessee has failed to furnish her return of income in response to notice under section 148 and has not furnished written submissions before the AO. Even assessee was absent before the Id. CIT (A) and the specific finding in the order of the Id. CIT (A) is that assessee always remained non cooperative during the assessment proceedings. Therefore, in our

view, these factual circumstances are enough to draw inference that assessee is not interested in pursuing the present appeal before us. Therefore, the adjournment application moved by the assessee was rejected.

3. On the other hand, the Id. D/R present in the Court was ready with the arguments and, therefore, we have decided to proceed with the hearing of the case ex parte.

4. The brief facts of the case are that the assessee has not filed her return of income under section 139(1) of the IT Act, 1961 for the year under appeal. The assessee purchased an immovable property for a consideration of Rs. 7,25,000/- during the year 2011-12. Considering the same, the AO after recording reasons under section 148 on the ground that the assessee has entered into purchase transaction of immovable property amounting to Rs. 7,25,000/- during the F.Y. 2010-11 relevant for assessment year 2011-12 and after obtaining prior approval of the Id. PCIT, issued notice under section 148 of the IT Act, 1961 on 27.03.2018 to the assessee, giving an opportunity to explain the source of investment in purchase of immovable property of Rs. 7,25,000/- during the year under consideration. But the assessee has not complied with the notice. In the absence of any response from the assessee, show cause notice under section 147/144 of the IT Act, 1961 dated 03.10.2018 was issued to the assessee. However, in compliance to the same, neither the assessee appeared nor filed any written submission. The AO, therefore, finding no alternative completed the assessment under section 147/144 of the IT Act, 1961 treating that the assessee has made investment out of unexplained source for purchase of immovable property for Rs. 7,25,000/- thereby added to the total income of the assessee as unexplained investment under section 69 of the IT Act,

1961. Aggrieved by the assessment order, assessee filed appeal before the Id. CIT (Appeals), who in turn dismissed the appeal of the assessee after detailed discussion and observing that assessee being non-responsive could not bring on record any specific submissions/detailed submissions in support of her case.

5. Now the assessee is in appeal before us.

6. We have heard the Id. D/R, perused the material on record and gone through the orders of the authorities below. At the outset, we find that the Id. CIT (A) after detailed discussion has dismissed the appeal of the assessee by observing in para 6 of his order as under :-

" 6. From the above detailed discussion, as made by the A.O. in the assessment order, it is clear that appellant is completely non-responsive and could not make any submissions during the pendency of the assessment proceedings before the AO thereby, resulting in treating the investment of appellant in immovable property during the year as unexplained in the hands of the assessee warranting for addition of same as per I.T. Act as rightly made by the A.O. During the pendency of this appeal proceedings also, appellant could not bring on record any specific submissions/detailed submissions explaining the source of such investments as made by the appellant during this A.Y. to the extent of Rs. 7,25,000/-. Appellant merely filed one adjournment letter on 23.02.2021 and thereafter, chose to be non-responsive. Even for the latest notices issued after sufficient time gap also, appellant could not bring out any further submissions for this long pending appeal since 26.06.2019 and accordingly, could not make any substantiation in support of the grounds of appeal so as to reconcile the unexplainable source of investment as made by the appellant during this assessment year. Considering the same, appellant's grounds of appeal against the addition made in the assessment order

dated 19.11.2018 u/s 69 of I.T. Act stands unverifiable and unexplained as per the provisions of I.T. Act. Accordingly, the assessment order dated 19.11.2018 passed by AO needs to be sustained and thereby appellant fails to succeed in the appeal filed against the AO. In the light of these findings/observations, appellant's appeal is dismissed."

Before us also, the assessee has neither appeared nor filed any written submissions for consideration. Therefore, in the absence of written submissions and considering the observations of the Id. CIT (A) hereinabove, we find no infirmity in the order of the Id. CIT (A). The same is upheld.

7. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on 7/06/2023.

Sd/-

(राठौड़ कमलेश जयंतभाई)
(RATHOD KAMLESH JAYANTBHAI)
लेखा सदस्य / Accountant Member

Sd/-

(संदीप गोसाईं)
(SANDEEP GOSAIN)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 7/06/2023.

Das/

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

1. अपीलार्थी / The Appellant- Mohita Sharma, Jaipur.
2. प्रत्यर्थी / The Respondent- The ITO, Ward 4(1), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File {ITA No. 232/JP/2023}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar

