

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. 37/Ind/2023
Assessment Year: 2017-18

Smt. Laxmi Sharma, 59, Kalisindh Marg, Mandir Ke Samne, Sonkatch, Dewas (Assessee / Appellant)	<u>बनाम/</u> Vs.	I.T.O., Ward-1, Dewas (Revenue / Respondent)
PAN: ECZPS1069E		
Assessee by	Shri Rajesh Mehta, CA	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	24.07.2023	
Date of Pronouncement	25.07.2023	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by appeal-order dated 07.10.2022 passed by learned Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre ["CIT(A)"], arising out of assessment-order dated 10.12.2019 passed by ITO, Ward-1, Dewas ["AO"] u/s 143(3) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2017-18, the assessee has filed this appeal.

2. Heard the learned Representatives of both sides at length and case-records perused.

3. The Registry has informed that the present appeal is filed after a delay of 59 days. Ld. AR for assessee submitted that the assessee has filed a condonation application supported by an affidavit praying for condonation of delay. Referring to the averments made in affidavit, Ld. AR submitted that the assessee is a senior lady aged about 82 years; resides in a small village called "Sonkatch"; lives with her husband who is also in older age; does not have any son and she is not well versed with technology. Further, the assessee did not receive any notice of hearing of first-appeal and, therefore, could not file submissions to the CIT(A). Even the assessee did not receive the email of impugned order from the office of CIT(A). Subsequently during recovery proceeding by department, the assessee came to know of impugned order having been passed *ex-parte* by the CIT(A). It is thereafter that the assessee logged in the Income Tax Portal for checking the status of appeal and came to know of impugned order. Therefore, there is a delay of 59 days in filing this appeal which should be condoned. Ld. AR submitted that the delay is not deliberate and the assessee does not stand to derive any benefit by making delay. With folded hands on behalf of assessee, Ld. AR prayed to consider the assessee's circumstances judiciously and condone the delay. Ld. DR for revenue was fair enough in not raising any objection and leaving the matter to the wisdom of Bench. Therefore, taking a liberal and judicious view of assessee's position and circumstances, we are condoning delay and this appeal is proceeded for hearing.

4. The case of assessee is such that during assessment-proceeding, the AO confronted the assessee as to the source of Rs. 11,10,000/- deposited in bank account during demonetization period. However, finding no response from assessee, the AO treated the amount deposited as unexplained money u/s 69A and made addition. The assessee carried the matter in first appeal but could not make any submission on the hearing dates fixed by Ld. CIT(A). Therefore, the CIT(A), having regard to non-prosecution by assessee, decided the appeal ex-parte whereby he agreed to AO's finding and did not grant any relief. Before us, Ld. AR made a very humble prayer that the assessee is having meritorious evidences to explain the source of cash-deposits in bank a/c but unfortunately during assessment-proceeding for the very same reasons as narrated earlier, namely the assessee is a senior lady; resides in a small village; lives with her husband who is also in older age; not having any son; and she is not well versed with technology; therefore she could not submit evidences. Ld. AR requested to take a judicious view in the matter and remand this case back to lower authorities to enable the assessee to place the details and evidences so that a proper adjudication can be done. Ld. DR does not have any objection but prays to remand this case to AO and not to CIT(A) so that the AO can verify the evidences of assessee aptly. Further, Ld. DR requests that direction be given to assessee to represent his case before AO and do not seek unnecessary adjournments. In view of the circumstances of assessee and 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 AO 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 AO and do not seek unnecessary adjournments.

5. Resultantly, this appeal is allowed for statistical purposes.

Order pronounced in the open court on 25/07/2023.

Sd/-
(VIJAY PAL RAO)
JUDICIAL MEMBER

sd/-
(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 25.07.2023

CPU/Sr. PS

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

By order

*Assistant Registrar
Income Tax Appellate Tribunal
Indore Bench, Indore*