

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.360/Ind/2022
Assessment Year: 2013-14

Shri Mahesh Kumar Garg, 86/87, Old Agrawal Nagar, Indore (Assessee /Appellant)	<u>बनाम/</u> Vs.	ITO, NFAC, Delhi/ACIT, (1), Indore. (Revenue / Respondent)
PAN: ABIPG3634M		
Assessee by	None	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	27.07.2023	
Date of Pronouncement	27.07.2023	

आदेश / O R D E R

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

Feeling aggrieved by appeal-order dated 29.09.2022 passed by learned Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre, Delhi ["Ld. CIT(A)"], which in turn arises out of penalty-order dated 01.03.2022 passed by learned National Faceless Assessment Centre, Delhi ["Ld. AO"] u/s 271(1)(c) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2013-14, the assessee has filed this appeal.

2. When the case is called, none appeared on behalf of assessee. However, Ld. DR for the revenue was available to argue and on perusal of

case-record, it is found that the case can be decided on the basis of orders of lower-authorities. Therefore, the hearing is proceeded and the case is being disposed of.

3. Section 250(6) of the Income-tax Act, 1961 provides *"The order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision."*. We observe that in the present case, the Ld. CIT(A) has dismissed the assessee's appeal, although due to non-prosecution by assessee on the dates of hearing fixed by Ld. CIT(A), but still without complying with the mandate of section 250(6). Therefore, the impugned first appeal-order passed by Ld. CIT(A) deserves to be set aside and the matter is fit for remand to the file of Ld. CIT(A) for a proper adjudication. Ld. DR fairly agrees to this but prays to direct the assessee to represent his case before Ld. CIT(A) and do not seek unnecessary adjournments. In view of this and also having regard to the principle of natural justice and fair play, we deem it fit to give one more opportunity to assessee so that the assessee can represent his case before CIT(A) for a proper adjudication. Accordingly, we remand this matter back to the file of Ld. CIT(A) for a fresh adjudication after giving opportunity of hearing to assessee. The assessee is also directed

to ensure participation in the hearings fixed by Ld. CIT(A) and do not seek unnecessary adjournments.

4. Resultantly, this appeal is allowed for statistical purpose.

Order pronounced in the open court during hearing and subsequently reduced in writing on the same day

Sd/-
(VIJAY PAL RAO)
JUDICIAL MEMBER

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

Indore

दिनांक /Dated : 27.07.2023.

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