

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. 372/Ind/2022
Assessment Year: 2011-12

Dr. Arvind Joshi, A-1/201, Paras City, E-3, Arera Colony, Bhopal (Assessee / Appellant)	<u>बनाम/</u> Vs.	ACIT – CPC, Bangalore (Revenue / Respondent)
PAN: AAVPJ3024C		
Assessee by	None	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	21.08.2023	
Date of Pronouncement	22.08.2023	

आदेश / O R D E R

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

Feeling aggrieved by appeal-order dated 29.08.2022 passed by learned Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre, Delhi, ["Ld. CIT(A)"], which in turn arises out of intimation of assessment dt. 24.12.2011 passed by CPC, Bangalore u/s 143(1), the assessee has filed this appeal on the grounds mentioned in appeal memo.

2. None appeared on behalf of the assessee when the case was called not any adjournment application filed. It is observed that sufficient notices have duly been served upon assessee through post as well as e-mail. Lastly, the case was adjourned from 19.07.2023 to 21.08.2023 (today) but the assessee

has still not appeared. On perusal of case file, it is found that the appeal can be decided on the basis of material available on record after hearing Ld. DR for Revenue. Accordingly, the hearing is continued and the case is being disposed of.

3. With the able assistance from Ld. DR for Revenue, it is found that the CIT(A) has passed ex-parte order qua assessee for the reason of non-prosecution by assessee and thereby dismissed assessee's appeal. It is further observed that the CIT(A) has also noted in his order that the first-appeal before him was filed on 10.05.2017 against the intimation of assessment dated 24.12.2011 after a delay of 1819 days from prescribed time. The CIT(A) noted that although he has power u/s 249(3) of the Act to condone delay if the assessee proves sufficient cause but since the assessee did not file any reply, he preferred not to condone the delay and thereby dismissed the appeal.

4. After hearing Ld. DR in the matter, we find that the assessee has not filed any reply to CIT(A) which might have happened due to some plausible reason. But the assessee should be given a fair chance to represent his case before CIT(A) in the interest of justice. It is further observed that in Ground No. 3 of Appeal Memo (Form no.36) filed before ITAT, the assessee has also pleaded that the impugned intimation u/s 143(1) dt. 24.12.2011 was never delivered to him and the same was provided to him on 27.04.2017 after a specific request, therefore the limitation period of 30 days for filing first-appeal should have been reckoned from 27.04.2017 and when it is so done, there would be no delay in filing first-appeal before CIT(A). Taking note of this ground raised by assessee, we proposed to Ld. DR to remand this case back to CIT(A) so that the assessee can make appropriate representation

before him and get the case decided in accordance with law. The Ld. DR was fair enough to accept our proposal. That being so, we remand this case back to the file of CIT(A) with a direction that he shall fix a fresh date of hearing, give opportunity to assessee and adjudicate the case afresh in accordance with law. We also direct assessee to make adequate representation before the CIT(A).

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

Order pronounced in the open court on 22.08.2023.

Sd/-
(VIJAY PAL RAO)
JUDICIAL MEMBER

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

Indore

दिनांक /Dated : 22.08.2023

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*