

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. 123/Ind/2023
Assessment Year:2007-08

Shri Anand Kumar Gupta, 42Zone II, M.P.Nagar, Bhopal	<u>बनाम/</u> Vs.	ACIT,1(1), Bhopal
(Assessee / Appellant)		(Revenue / Respondent)
PAN: ABAPG6425G		
Assessee by	Shri S.S.Deshpande, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	31.08.2023	
Date of Pronouncement	31.08.2023	

आदेश / O R D E R

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

Feeling aggrieved by appeal-order dated 21.02.2023 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, ["CIT(A)"], which in turn arises out of assessment-order dated 30.12.2009 passed by learned ACIT-1(1), Bhopal ["AO"] u/s 143(3) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2007-08, the assessee has filed this appeal.

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

3. Ld. AR for assessee briefed that in present case, a survey was conducted upon assessee on 30.10.2006 during the previous year 2006-07 relevant to AY 2007-08 for which this appeal relates. The AO made certain additions while framing assessment u/s 143(3). Thereafter, the assessee went in first-appeal. During first-appeal, the CIT(A), as is mentioned in Para No. 4.2 of his order, fixed hearing on 23.12.2020, 06.12.2022, 22.12.2022 and 23.01.2023 but on those dates the assessee sought adjournments. The CIT(A) has clearly mentioned *"No details furnished, petition for adjournment was received"*. Thereafter, the CIT(A) has dismissed first-appeal. Then, Ld. AR carried us to Page No. 16 to 20, 22 and 24 of the Paper-Book where the repeated applications filed by assessee to AO, during assessment-proceeding and even during pendency of first-appeal, for providing copies of documents impounded during survey are placed. Those documents were ultimately supplied to assessee by the office of DCIT-1(1), Bhopal vide letter F.No. DCIT-1(1)/BPL/Misc/2022-23 on 10.02.2023, copy of letter is placed at Page No. 21 of Paper-Book. Thus, Ld. AR submitted that the documents for making submission to authorities were supplied lately on 10.02.2023. Hence, the assessee had to seek adjournments from CIT(A) from time to time. Ld. AR submitted that the case of assessee is such that without those documents, the assessee was unable to make representation before lower-authorities even before AO. Therefore, it would be most appropriate if the case is remanded to the AO for an apt consideration. Ld. DR fairly agreed to this proposal of Ld. AR.

4. In view of above submissions of parties, we deem it fit to remand this matter back to the file of AO for a fresh adjudication after giving opportunity of hearing to assessee, uninfluenced by his previous order. 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 purpose.

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

Sd/-
(VIJAY PAL RAO)
JUDICIAL MEMBER

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

Indore

दिनांक /Dated : 31.08.2023

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