

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. 109/Ind/2023
Assessment Year:2015-16

Ved Prakash Sharma, 23-24, MICAPLY, Industrial Area, Mandideep, Distt. Raisen	<u>बनाम/</u> Vs.	ITO, Raisen
(Assessee / Appellant)		(Revenue / Respondent)
PAN: ACRPS2997R		
Assessee by	None	
Revenue by	Shri Ashish Porwal, Sr DR	
Date of Hearing	04.09.2023	
Date of Pronouncement	05.09.2023	

आदेश / O R D E R

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

Feeling aggrieved by appeal-order dated 30.01.2023 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, ["CIT(A)"], which in turn arises out of assessment-order dated 22.11.2017 passed by learned ITO, Raisen ["AO"] u/s 143(3) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2015-16, the assessee has filed this appeal.

2. None appeared for assessee when the case is called. The case was passed over and once again taken up at the end of board but still nobody

appeared nor any adjournment request filed. On perusal of case-file, it is found that the notice was served upon assessee by post. Notice through e-mail was also served upon assessee's counsel as per report given by Bench Clerk. Ld. DR was ready to represent the revenue. In this situation, the hearing is proceeded and the case is being disposed of ex-parte assessee on the basis of material held on record and after considering the revenue's submissions.

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. When the Bench proposed this, Ld. DR fairly agrees 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 failing which the CIT(A) shall be entitled to take an appropriate decision.

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

Order pronounced in the open court on 05.09.2023.

Sd/-
(VIJAY PAL RAO)
JUDICIAL MEMBER

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

Indore

दिनांक /Dated :05.09.2023.

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