

**IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH, JABALPUR**

**BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

**ITA No.91/Jab/2023
(ASSESSMENT YEAR- 2015- 2016)**

Rishabh Kumar Jain, Prop. Of M/s. Roop Chand Jain, H.No.146, LIG, Gour Nagar, Makroniya, Sagar, Madhya Pradesh-470004.	vs	ITO-1, Sagar
(Appellant)		(Respondent)
PAN No. AMWPJ0852F		

Assessee By	Shri Dhiraj Ghai, FCA
Revenue By	Shri Shiv Kumar, Sr.DR
Date of hearing	12/09/2023
Date of Pronouncement	12/09/2023

ORDER

PER OM PRAKASH KANT, A.M.:

This appeal by the assessee is directed against order dated 13.12.2021 passed by Ld. Commissioner of Income Tax(Appeals), National Falceless Appeal Centre, Delhi ["Ld.CIT(A)"] for the assessment year 2015-16, raising following grounds:

- 1. "That looking to facts and circumstances of the case the Ld.CIT(A) erred in issuing ex party order on 13.06.2023. CIT(A) further erred in providing opportunities of hearing on dates when country witnessing corona was besides assessee himself suffered corona twice leading for long illness running into 3 year of continuums medical*

*treatment on account of which appeal hearing notices could not be viewed /provided to council and henceforth the appeal order may kindly be quashed or **sent back to file of the CIT (A) again.***

2. *Looking to facts and circumstances of the case and without prejudice to ground no 1 ,CIT (A) erred in passing appeal order without giving proper opportunity is contrary to Hon'ble Supreme Court decision in the case of Sona Builders Vs. Union of India 251 ITR 197(SC) and accordingly needs to be quashed even on account of natural justice too as has been held in the case of Praful M. Shah Vs National Faceless Assessment &Ors. (Bombay High Court).*
3. *Looking to facts and circumstances of the case and without prejudice to ground no 1 and 2, CIT (A) erred in confirming addition of Rs.15,37,984/- by totally ignoring the fact that full receipt of Rs. 15,37,984/-being difference in books and 26 AS cannot be income of assessee from any stand of imagination and hence GP rate should have been applied for making correct addition. Accordingly addition of Rs. 15,37,984/-may kindly be deleted.*
4. *Looking to facts and circumstances of the case and without prejudice to ground no 1 and 2 CIT (A) erred in confirming addition of Rs. 8,500/- out of car depreciation and Rs. 30,000/- out of vehicle maintenance expense on adhoc basis being against jurisdictional ITAT decision in the case of Ganesh pratapsingh Vs ACIT Circle Satna (ITA No. 214/Jbp/2013) and hence the same should be deleted.*

5. *Looking to facts and circumstances of the case and without prejudice to ground no 1 and 2 CIT (A) erred in dismissing assessee ground that his case was not selected for scrutiny for disallowance of aforesaid expenses as mentioned in para 4 and 5 and hence in view of CBDT guideline the CIT (A) should have quash the assessment order.*

6. *The appellant craves leave to add or amend any ground of the appeal.”*

2. Ground Nos. 1 & 2 raised by the assessee before us relate to passing the order by Ld.CIT(A) without providing proper opportunity of hearing to the assessee.

3. We have heard Ld. Authorized Representatives of the parties on issue in dispute and perused the material available on record. We find that Ld.CIT(A) provided various opportunities, *inter alia*, 24.02.2021, 01.02.2023, 08.03.2023 and 19.04.2023 but same were not responded by the assessee and therefore, Ld.CIT(A) passed the order on the basis of material available on record and partly allowed the appeal of the assessee.

4. Before us, Ld. Counsel for the assessee submitted that the assessee is willing to file necessary submissions and cooperate in the appellate proceedings if the matter is restored back. In our opinion, the order by Ld.CIT(A) has been passed without considering the submission of the assessee and before us, Ld.

Counsel for the assessee has given undertaking that the assessee shall cooperate in appellate proceedings before Ld.CIT(A). Therefore, in the interest of substantial justice, we feel appropriate to restore the matter in dispute involved in grounds of appeal of the assessee, back to the file of Ld.CIT(A) for deciding afresh after taking into consideration the submission of the assessee. Ground Nos. 1& .2 raised by the assessee is accordingly, allowed.

5. We are not required to be adjudicate other grounds in view of the appeal restored back to the file of Ld.CIT(A) for deciding afresh on merit.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 12/09/2023.

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Amit Kumar

Copy to:

1. The Appellant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR
6. Guard File

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Asstt. Registrar
Jabalpur Bench