

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.186/Ind/2023
(Assessment Year:2017-18)

Bharat Irrigation Private Ltd. 138/1, Basad Fata, Khandwa Road Burhanpur	Vs.	ADIT/ACIT Khandwa
(Appellant / Assessee)		(Revenue)
PAN: AAECB 8975 G		
Assessee by	Shri Soumya Bumb, AR	
Revenue by	Ms. Simran Bhullar, CIT-DR	
Date of Hearing	20.09.2023	
Date of Pronouncement	22 .09.2023	

O R D E R

PER VIJAY PAL RAO, JM:

This appeal by the Assesse is directed against order dated 21.03.2023 of Commissioner of Income Tax (Appeal), National Faceless Appeal Centre (NFAC), Delhi for A.Y.2017-18. The assessee has raised following grounds of appeal:

“1. On the facts and circumstances of the case and in law the learned CPC Bangalore erred in passing intimation order u/s 143(3) in case of the Appellant and making adjustment which is not permissible under Section 143(3) of the Act. The Appellant prays that the said order is illegal, unwarranted and uncalled for and accordingly the same be directed to be quashed.

2. On the facts and circumstances of the case and in law, the learned Commissioner of Income tax (Appeals)-I ("CIT(A)") erred in dismissing the appeal of the Assessee without giving proper opportunity of

hearing and thereby confirming the addition made by the Assessing Officer. The Appellant prays that the said order be set aside to the CIT(A) for hearing on merits.”

2. At the time of hearing the Ld. AR of the assessee has referred to ground no.2 of the appeal and submitted that the CIT(A) has dismissed the appeal of the assessee *ex-parte* without giving proper opportunity of hearing. He has further submitted that last notice issued by the CIT(A) allowed only four (4) days to the assessee to submit the reply and supporting evidence. However due to paucity of time the assessee could not submit documentary evidence and submissions before the Ld. CIT(A). Therefore, the dismissal of the appeal by the CIT(A) on the ground of non-submission of documentary evidences/relevant information in support of the grounds is not justified. He has pleaded that the assessee be given one more opportunity of hearing to submit necessary documentary evidences and submissions before the Ld. CIT(A).

3. On the other hand, ld. DR has objected to the plea of the assessee and submitted that the Ld. CIT(A) has issued three notices through e-mail ID of the assessee as well as authorized representative of the assessee.. None of the notices was replied by the assessee as neither any application for adjournment nor any documentary evidence was produced by the assessee. She has relied upon the impugned order of the Ld. CIT(A).

4. We have considered the rival submissions as well as relevant material on record. On careful perused impugned order we noted that the Ld. CIT(A) issued three notices to the assessee through e-mail. The last notice has issued on 13.03.2023 for the date of hearing on 17.03.2023. Thereafter, the impugned order was passed *ex-parte*. Thus, it is clear that only four days time was granted to the assessee to submit documentary evidences/information in support of the grounds of appeal. There is no dispute that the assessee did not response to any of the notices issued by the CIT(A) however, at the same time the Ld. CIT(A) has also not passed

speaking order while dismissing the appeal of the assessee. The relevant part of the finding of the Ld. CIT(A) in para 5 is as under:

“5. Appellate Findings: 5.1.1 During the appellate proceedings, the appellant has only submitted submission in the form of 'Statement of Facts'. After that neither he has replied to hearing notices nor submitted any documentary evidence/information to prove his side. Sufficient and adequate opportunities were afforded to the appellant as indicated at table at para no. 4.1.1. No reply whatsoever has been submitted by the appellant. It can be safely presumed that the appellant is not interested in pursuing his appeal. Therefore, the undersigned sees no reason to interfere with the order of the Assessing Officer. Thus, the appeal raised by the appellant is dismissed.”

5. Thus, it is clear that the Ld. CIT(A) has dismissed the appeal of the assessee summarily for want of documentary evidences/information which is not in accordance with the provisions of section 250(6) of the Income Tax Act. Accordingly in the facts and circumstances of the case and in the interest of justice the impugned order of the Ld. CIT(A) is set aside and the matter is remanded to the record of the CIT(A) for fresh adjudication on merits after granting one more opportunity of hearing to the assessee to present its case. The CIT(A) shall pass a speaking order on merits.

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

Order pronounced in the open court on 22 .09.2023

Sd/-

(B.M. BIYANI)
Accountant Member

Indore, 22.09.2023

Patel/Sr. PS

Sd/-

(VIJAY PAL RAO)
Judicial Member

Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore