

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "SMC" JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य एवं श्री राठौड़ कमलेश जयंतभाई, लेखा सदस्य के समक्ष  
BEFORE: SHRI SANDEEP GOSAIN, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA No.404/JP/2023  
निर्धारण वर्ष / Assessment Years : 2010-11

Chiranji Lal Bairwa Plot No. 44 Triveni Nagar, Opp Railway Station, Rampura Road Sanganer, Jaipur	बनाम Vs.	ITO Ward 7(2), Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: ALSPB 8259 M		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : None  
राजस्व की ओर से / Revenue by: Smt. Monisha Choudhary (Addl. CIT)

सुनवाई की तारीख / Date of Hearing : 20/09/2023  
उदघोषणा की तारीख / Date of Pronouncement: 04 /10/2023

आदेश / ORDER

PER: RATHOD KAMLESH JAYANTBHAI, AM

This appeal is filed by assessee and is arising out of the order of the National Faceless Appeal Centre, Delhi dated 09.03.2023 [here in after Id. NFAC/CIT(A) ] for assessment year 2010-11 which in turn arise from the order dated 21.12.2017 passed under section 147 r.w.s. 144 of the Income Tax Act, 1961 [ here in after to as Act ] by TRO-3, Jaipur .

2. In this appeal, the assessee has raised following grounds: -

- “1. That on the facts and in the circumstances of the case the order passed by Id. CIT(A), NFAC is bad in law and bad in facts.
2. That on the facts and in the circumstances of the case the Ld. CIT(A), NFAC grossly erred in upholding the validity of notice u/s 148 of the Act.
3. That on the facts and in the circumstances of the case the Id. CIT(A), NFAC erred in upholding validity of assessment order passed by the Id. AO.
4. That on the facts and in the circumstances of the case the Ld. CIT(A), NFAC grossly erred in sustaining the addition of Rs. 8,31,375/- by treating the sale of property as capital asset which is contrary to material facts.
6. That on the facts and in the circumstances of the case the Ld. CIT(A), NFAC grossly erred in making allegations against the assessee which are not only contrary but also against the principle of natural justice.
7. That the petitioner may kindly be permitted to raise any additional or alternative grounds at or before the time of hearing.
8. The petitioner prays for justice & relief.”

3. A propose to the hearing, the bench noted that there is delay in filing appeal by 56 days notices of defect send to the assessee by e-mail but has not yet responded and hearing. This case was fixed for hearing on 29.03.2023 on the date of hearing, the assessee has filed an adjournment application and the same was dismissed as the reasons advanced in the adjournment application is not sufficient, the content of the adjournment application is as under:-

“The above-referred appeals are posted for hearing before the Hon’ble Bench on 20/09/2023.

I shall be grateful if your honour's make it convenient to adjourn the hearing any other suitable date as the I have received the instruction from the local council for arguing the appeal today but not received the Vakalatnama and appeal record as the local council is busy in audit work and filing of return."

4. Since we have not entertained the adjournment application, the appeal of the assessee is decided based on the facts available on record.

5. Succinctly, the fact as culled out from the records is that notice u/s 148 was issued on 30.03.2017 after obtaining prior approval of Pr.CIT-3, Jaipur since there was an information with the Department that assessee had sold land vide Khasra No. 1091/954 during FY 2009-10 for Rs.5,00,000/- within the municipal limits of Jaipur city. The value of this land under section 50C of the IT Act, 1961 is Rs.8,36,375/-. Notice u/s 142(1) was issued on 11.08.2017 and served for compliance on 24.08.2017. There was no compliance by assessee to this notice u/s 142(1) and subsequent notices u/s 142(1) and final opportunity/show cause notice u/s 142(1) dated 11.09.2017 for compliance on 25.09.2017. Assessment u/s 147/144 was completed ex-parte on 21.12.2017 at total income of Rs.8,31,375/-. Against this order, appeal was filed before Ld. CIT(Appeals)-3, Jaipur on 27.01.2018 who decided the appeal ex-parte on 19.12.2018 due to total non-compliance by assessee. Against this order assessee moved ITAT, Jaipur Bench, wherein the bench vide order in ITA No.206/JP/2019 dated

06.03.2020 set aside the issue to the file of Id. CIT(Appeals) for fresh adjudication.

6. Thus, the bench noted that the assessee was given the chance to represent the case before Id. CIT(A) and even though there were three notices given after set aside of the proceedings by the Bench to the assessee. Three instances of the notices are given in span of 10 months and the assessee did file any submission in support of the grounds raised in the appeal before the Id. CIT(A). Therefore, the Id. CIT(A) has passed a detailed order, mentioning the details of 3 notices issued to the assessee as reproduced here in below :

Notice issued	Date of issue of notice	Date of compliance	Remarks
250	04.04.2022	11.04.2022	No reply
250	21.12.2022	26.12.2022	Adjournment petition filed on 17.01.2023
250	09.02.2023	14.02.2023	No reply

7. Therefore, in support of the fact that the assessee remained non-compliant in the earlier round of litigation. One more chance was given by the Bench vide order dated 06.03.2020 on which the assessee in support of given three occasions did not appear and file the requisite submission before Id. CIT(A). Therefore, it appears that the assessee is not interested in pursuing his case on merits. Before us also while filing the appeal, the

assessee did not file any document in support of the claim that why the addition of Rs. 8,31,375/- is not sustainable and it is sale of property and is capital assets and receipt thereof is not chargeable to tax in full. Based on these observations, the appeal of the assessee stands dismissed.

In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on 04/10/2023.

Sd/-

( संदीप गोसाई )  
(Sandeep Gosain)  
न्यायिक सदस्य / Judicial Member

Sd/-

( राठौड कमलेश जयंतभाई )  
(Rathod Kamlesh Jayantbhai)  
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 04/10/2023

\*Ganesh Kumar, PS

आदेश की प्रतिलिपि अग्रेशित / Copy of the order forwarded to:

1. The Appellant- Chiranji Lal Bairwa, Jaipur
2. प्रत्यर्थी / The Respondent- ITO, Ward 7(2), Jaipur
3. आयकर आयुक्त / The Id CIT
4. आयकर आयुक्त(अपील) / The Id CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 404/JP/2023)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar