

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

श्री संदीप गोसाई, न्यायिक सदस्य एवं श्री राठौड़ कमलेश जयंतभाई, लेखा सदस्य के समक्ष

BEFORE: HON'BLE SHRI SANDEEP GOSAIN, JM &
HON'BLE SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA Nos. 318 & 319 /JP/2023
निर्धारण वर्ष /Assessment Years : 2018-19 & 2019-20.

Shri Manmeet Singh Chhabra, 107,Indra Colony Bajaria, Sawai Madhopur.	बनाम Vs.	The DCIT Central -1, Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No. BHJPS 8231 G		
अपीलार्थी /Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से / Assessee by : Shri C.P. Chawla, ITP

राजस्व की ओर से / Revenue by : Shri Ajey Malik (CIT)

सुनवाई की तारीख / Date of Hearing : 04/10/2023

उदघोषणा की तारीख / Date of Pronouncement: 30/10/2023

आदेश / ORDER

PER: SANDEEP GOSAIN, J.M.

These two appeals by the assessee are directed against two separate orders dated 22.03.2023 of Id. CIT (Appeals)-4, Jaipur passed under section 250 of the IT Act, 1961 for the assessment years 2018-19 and 2019-20. The assessee has raised the following grounds :-

ITA No. 318/JP/2023 :

1. On the facts and in the circumstances of the case, the Id. CIT (Appeals)-4, Jaipur has erred in confirming disallowance of Rs. 92,229/- made by the AO on account of interest on Car Loan claimed by the assessee and deducted it from interest income shown under the head Income from Other Sources.

2. On the facts and in the circumstances of the case the Id. CIT (Appeals)-4, Jaipur has erred in confirming disallowance of interest amounting to Rs. 24,707/- made by the AO on account of excessive interest paid to Smt. Balvinder Kaur.
3. The appellant craves the right to add, amend, alter and delete the ground of appeal before or at the time of hearing of appeal.

ITA No. 319/JP/2023 :

1. On the facts and in the circumstances of the case, the Id. CIT (Appeals)-4, Jaipur has erred in confirming disallowance of Rs. 92,229/- made by the AO on account of interest on Car Loan claimed by the assessee and deducted it from interest income shown under the head Income from Other Sources.
2. The appellant craves the right to add, amend, alter and delete the ground of appeal before or at the time of hearing of appeal.

The grounds raised in both these appeals are identical, therefore for the sake of convenient, we dispose these appeals by this combined order. First, we take up the appeal in **ITA No. 318/JP/2023.**

2. The brief facts of the case are that the assessee derives his income from salary, house property, income from other sources during the year under consideration. The assessee filed his original return of income under section 139 of the IT Act on 29.08.2018 declaring total income at Rs. 7,27,590/-. A search and seizure operation under section 132(1) of the IT Act, 1961 was conducted on 16.01.2019 at the various premises of Om Agarwal Group and the assessee is one of the members of the group. Pursuant to this, the AO issued notice under section 153A of the Act to the assessee on 19.03.2020 which was duly served on the assessee. In response to the said notice, the assessee furnished return of income on 19.06.2020 declaring total income of Rs. 7,27,590/- for the AY 2018-19, as declared

in the return filed under section 139. The AO completed the assessment under section 143(3) read with section 153A of the IT Act vide order dated 22.04.2021 at a total income of Rs. 8,44,526/- by making an addition of Rs. 1,16,936/- (consisting of Rs. 92,229/- on account of interest expenses on Car Loan and Rs. 24,707/- on account of disallowance of excess interest paid). Aggrieved by the order of the AO, the assessee preferred appeal before the Id. CIT (A). At the time of appellate proceedings, the Id. CIT (A) required the assessee to furnish the details/submissions in support of his case, by issuing following notices under section 250 on various dates, which were not complied with by the assessee :

Date of Notice	Date of hearing	Remarks
04.01.2023	11.01.2023	No compliance
25.01.2023	01.02.2023	No compliance
25.02.2023	07.03.2023	No compliance
09.03.2023	16.03.2023	No compliance

Vide notice dated 09.03.2023 the assessee was specifically informed that this is the last opportunity given for furnishing relevant documentary evidences along with submissions in support of his case. Since the assessee has not complied with the above notices, the Id. CIT (A) observing that the assessee is not interested in pursuing its case, decided to dispose off the appeal ex-parte, on the basis of material available on record. The Id. CIT (A) confirmed the assessment order by observing that there was no new material before him to hold otherwise.

Now the assessee is in appeal before us.

3. We have heard the rival contentions, perused the material on record and gone through the orders of the revenue authorities. At the outset, we find that the

Id. CIT (A) decided the appeal by observing in para 5.2 of his order as under :-

"5.2. Based on whatever material is available on file and in absence of any new submission/finding and any other material for which the appellant was provided so many opportunities and considering the fact that the appellant has no business income to claim any expenditure on account interest on car loan is not allowable expenditure and no justification is given for paying interest at a higher rate to Smt. Balvinder Kaur, I do not find any infirmity in the addition made by the AO. This ground of appeal is rejected and the addition of Rs. 1,16,936/- is confirmed."

From the above observation, we find that inspite of sufficient opportunities of being heard given to the assessee, the assessee has not complied with the notices. The Id. CIT (A) in absence of compliance of the notices issued under section 250 of the IT Act, and further no new submissions /documents etc. were before him, he confirmed the assessment order passed by the AO.

4. Since the impugned order of the Id. CIT (A) was passed ex parte for non compliance of the notices issued and not furnishing the documentary evidences, by upholding the assessment order under section 143(3)/153A of the IT Act, whereby the AO made addition of Rs. 1,16,936/-, therefore, in the totality of facts and circumstances of the case and in the interest of justice, we are of the view that it will be reasonable to provide one more opportunity to the assessee. We, thus, set aside the ex-parte order of the Id. CIT (A) and restore the matter back to the file of the Id. CIT (A) for fresh adjudication after providing a reasonable opportunity of being heard to the assessee. The assessee is granted one more opportunity to

represent his case before the Id. CIT (A) and directed to file necessary documents/evidences as required by Id. CIT (A). In case the assessee fails to appear before the Id. CIT (A), the Id. CIT (A) may decide the appeal on the basis of the material available on record.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

ITA NO. 319/JP/2023 :

6. The ground raised in this appeal is exactly similar to the ground raised in ITA No. 318/JP/2023 and after going through the facts and circumstances of the case, we have restored the matter to the file of Id. CIT (A) for fresh adjudication after providing a reasonable opportunity of being heard to the assessee. Therefore, on the similar reason, we restore this matter also to the file of Id. CIT (A) for fresh adjudication after providing an opportunity of being heard to the assessee.

7. In the result, this appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 30/10/2023.

Sd/-

(राठौड़ कमलेश जयंतभाई)
(RATHOD KAMLESH JAYANTBHAI)
लेखा सदस्य / Accountant Member

Sd/-

(संदीप गोसाईं)
(SANDEEP GOSAIN)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 30/10/2023.

Das/

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

1. अपीलार्थी / The Appellant- Shri Manmeet Singh Chhabra, Jaipur.
2. प्रत्यर्थी / The Respondent- DCIT, Central-1, Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File {ITA No. 318 & 319/JP/2023}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar