

**आयकरअपीलीयअधिकरण,इंदौरन्यायपीठ,इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**INDORE BENCH, INDORE**  
**BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER**  
**AND**  
**SHRIB.M. BIYANI, ACCOUNTANT MEMBER**

**ITA No. 264/Ind/2023**  
**Assessment Year: 2012-13**

Shri Sandeep Dubey, C/o Deepak Agencies, A.B.Road, PWD Colony, Shajapur.	<b><u>बनाम/</u></b> Vs.	ITO, NFAC, NEW DELHI
(Assessee / Appellant)		(Revenue / Respondent)
<b>PAN: ACXPD7140H</b>		
Assessee by	Shri Sharad Jain, AR	
Revenue by	None	
Date of Hearing	29.11.2023	
Date of Pronouncement	29.11.2023	

**आदेश/O R D E R**

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

Feeling aggrieved by appeal-order dated 29.05.2023 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"], which in turn arises out of penalty-order dated 15.12.2021 passed by learned ITO, NFAC, Delhi ["AO"] u/s 271(1)(b) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2012-13, the assessee has filed this appeal.

2. None appeared on behalf of revenue when the case is called for hearing although a request for adjournment is filed. Ld. AR for assessee submitted that the CIT(A)'s order is ex-parte qua assessee, therefore this case deserves for a remand to CIT(A). Hence, the hearing may be proceeded. After consideration, the hearing is proceeded.

3. Ld. AR submits that the CIT(A) has passed order of first-appeal *ex-parte* since the assessee did not make representation on the dates of hearing fixed by him. He drew our attention to first Para of impugned order and submitted that the first-appeal was initially taken under physical system but subsequently migrated to faceless regime and being unaware of faceless systems, the assessee was not able to make representation. Ld. AR submitted that the assessee is willing and ready to make representation before CIT(A) if a chance is given. Ld. AR prayed that the matter may be remanded to the file of Ld. CIT(A) for a proper adjudication on merit after giving due opportunity of hearing to the assessee. Considering the prayer of Ld. AR and having regarding to the principle of natural justice and fair play, we deem it fit and appropriate to remand this matter back to the file of Ld. CIT(A) for a proper adjudication after giving opportunity of hearing to the assessee, uninfluenced by his earlier decision. We order accordingly. The assessee is also directed to ensure participation in the hearings fixed by Ld. CIT(A) and do not seek unnecessary adjournments.

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

Order pronounced in open court immediately after conclusion of hearing  
and subsequently reduced in writing.

sd/-  
VIJAY PAL RAO  
JUDICIAL MEMBER

sd/-  
B. M. BIYANI  
ACCOUNTANT MEMBER

**Indore**

दिनांक /Dated : 29.11.2023.

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