

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

डा० एस. सीतालक्ष्मी, न्यायिक सदस्य एवं श्री राठौड़ कमलेश जयन्तभाई, लेखा सदस्य के समक्ष
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA No. 612/JPR/2023
निर्धारण वर्ष / Assessment Years : 2017-18

Shweta Soni Behind Shiv Mandir Cinema, Anand Nagar, Sikar.	बनाम Vs.	ITO, Ward-3, Sikar.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: BGGPS 8458 H		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assesseeby : Shri Vedant Agrawal (Adv.)
राजस्व की ओरसे / Revenue by : Smt. Monisha Choudhary (Addl.CIT)

सुनवाई की तारीख / Date of Hearing : 07/11/2023
उदघोषणा की तारीख / Date of Pronouncement: 19/12/2023

आदेश / ORDER

PER: DR. S. SEETHALAKSHMI, J.M.

This appeal is filed by the assessee against the order of the Id. CIT(A) dated 09.08.2023, National Faceless Appeal Centre, Delhi [herein after referred to as "NFAC"] for the assessment year 2017-18.

2. The assessee has raised the following grounds of appeal:-

"1. On the facts and circumstances of the case and in law also Ld. CIT(a) grossly erred in dismissing the appeal.

2. On the facts and circumstances of the case, Ld. CIT(A) grossly erred in rejecting the appeal of assessee without considering the reply of assessee filed during assessment proceedings and without giving proper opportunity of being heard to the assessee.

3. On the facts and circumstances of the case and in law also Ld. Lower authorities grossly erred in making and confirming the addition of Rs. 17,30,500/- under section 69A of the Income Tax Act.

4. That the appellant craves his indulgence to add, amend, alter or delete any or all of the ground of appeal at any time before decision of appeal.”

3. Brief facts of the case are that the assessee has filed her return of income declaring income at Rs. 6,55,470/- and agricultural income of Rs. 1,74,548/- on 31.03.2018 for the assessment year 2017-18. The return filed by the assessee was processed u/s 143(1) of the Income Tax Act, 1961. Subsequently, the case was selected for scrutiny through CASS for the reason “Cash deposits during demonetization period”. Consequently, notice u/s 143(2) of the Act was issued on 12.08.2018 which was duly served upon the assessee through online mode. The assessee remained mostly non responsive during re-assessment proceedings. The AO finally made addition u/s 69A of the Income Tax Act, 1961 in respect of unexplained cash deposit of Rs. 17,30,500/-.

4. Being aggrieved by the order of the AO, the assessee filed an appeal before the ld. CIT(A). The ld. CIT(A) observed that notices were issued on

14.01.2021, 04.11.2022, 09.06..2023 and 13.07.2023 requiring the assessee to file the details in support of grounds taken by the assessee. Since the assessee has not complied with the notices issued by the Id. CIT(A) but he has dismissed the appeal of the ex-parte order. The extract of the order of the Id. CIT(A) is reproduced as under:-

“6. In view of the above, the undersigned is left with no option but to decide the case on the basis of material on record. Bare perusal of the facts shows that the appellant has not pursued the appeal despite being granted several opportunities as elaborated supra. The assessee has further jeopardized its case by not responding despite several opportunities that were provided. In the absence of any evidence whatsoever, whether documentary or otherwise, I am constrained to agree with the approach adopted by the AO in making the addition. The AO has passed a reasoned and speaking order considering all the facts and circumstances of the case and no interference with the order of the AO is called for. The grounds of appeal are therefore dismissed.

7. Thus, in view of the facts and circumstances of the case, the order passed u/s 143(3) of the Act dated 09.12.2019 by the AO is upheld.

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

5. During the course of hearing, the Id. AR for the assessee prayed that the Id. CIT(A) has passed the ex-parte order and the assessee was not provided adequate opportunity of being heard. Thus, the assessee may be provided one more opportunity to advance his arguments/submissions before the Id. CIT(A) in the interest of equity and justice.

6. Per contra, the ld. DR supported the orders of the lower authorities praying that the assessee was provided various opportunities by the lower authorities to argue the case but the assessee was lethargic and unserious to pursue her case and thus the order passed by the ld. CIT(A) should be sustained.

7. We have heard the rival contentions and perused the material available on record. From the ld. CIT(A)'s order, it is noted that the appeal of the assessee is dismissed by the ld. CIT (A) for want of non-prosecution of the appeal. The Bench further noted the grievance from the grounds of appeal of the assessee wherein he submitted that *“On the facts and circumstances of the case, Ld. CIT(A) grossly erred in rejecting the appeal of assessee without considering the reply of assessee filed during assessment proceedings and without giving proper opportunity of being heard to the assessee.”* The object of the Bench is to provide justice and readdress the grievance as raised before us. Hence, looking to the facts /grievance of the assessee as raised hereinabove, the Bench feels that one more chance should be given to the assessee to contest the case before the ld. CITA) and submit the necessary reply to resolve the issue raised in the appeal before him. Thus the appeal of the assessee is restored to the file of the ld. CIT(A) for afresh adjudication of the case but by providing one more opportunity in this case.

8. Before parting, we may make it clear that our decision to restore the matter back to the file of the Id. CIT(A) shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by the Id. CIT(A) independently in accordance with law.

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

Order pronounced in the open court on 19/12/2023.

Sd/-
(राठौड़ कमलेश जयन्तभाई)
(RATHOD KAMLESH JAYANTBHAI)
लेखा सदस्य / Accountant Member

Sd/-
(डॉ.एस.सीतालक्ष्मी)
(Dr. S. Seethalakshmi)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 19/12/2023

*Santosh

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

1. The Appellant- Shweta Soni, Sikar.
2. प्रत्यर्थी / The Respondent- ITO, Ward-3, Sikar.
3. आयकर आयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्डफाईल / Guard File ITA No. 612/JPR/2023)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar