

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. 331/Ind/2023
Assessment Year: 2011-12

Prafull Kumar Vijayvergiya Construction, 1,Shujalpur Mandi, M.G.Road, Shajapur	<u>बनाम/</u> Vs.	ITO, Shajapur
(Assessee/Appellant)		(Revenue/Respondent)
PAN: AAKFP2575P		
Assessee by	Shri Soumya Bumb, CA	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	15.01.2024	
Date of Pronouncement	16.01.2024	

आदेश / O R D E R

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

Feeling aggrieved by appeal-order dated 08.06.2023 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"], which in turn arises out of assessment-order dated 27.11.2018 passed by learned ITO, Sajapur ["AO"] u/s 147 read with section 144 of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2011-12, the assessee has filed this appeal.

2. The background facts leading to present appeal are such that the AO, on receipt of certain information revealing that the assessee was having contract receipts as well as TDS initiated enquiry against assessee but the

assessee did not make any response. Then, the AO issued notice u/s 148 followed by notices u/s 142(1) but the assessee did not comply even those notices. Ultimately, the AO completed assessment u/s 147 read with section 144 after making an addition of Rs. 8,72,373/- on account of undisclosed income. Aggrieved, the assessee carried matter in first-appeal where the CIT(A) passed an *ex-parte* order dismissing assessee's grounds. Still aggrieved, the assessee has come in next appeal before us.

3. Ld. AR carried us to Form No. 35 filed by assessee to CIT(A) while filing first-appeal and showed that the assessee has mentioned praffullvijay@yahoo.in against 'email address' as well as 'address to which notices may be sent to the appellant'. Despite this, the CIT(A) has sent e-mails to 'Rajesh_Ujn@rediffmail.com' which is evident from one of the hearing-notices downloaded from e-filing website of department, copy placed on record. Therefore, the notices related to hearing of appeal sent by CIT(A) were not received and the assessee could not attend the hearings which has led to the passing of *ex-parte* order by Ld. CIT(A). Ld. AR submits that the assessee is ready and willing to make representation if an opportunity is given. Ld. AR prays that the matter may be remanded to the lower-authority for a proper adjudication. Ld. AR prayed that since the assessment-order was also passed by AO u/s 144, it would be better to remand this matter to the file of AO instead of CIT(A). Ld. DR does not have any objection but prays to direct the assessee to represent his case before AO and do not seek unnecessary adjournments. In view of such pleadings and consensus by

parties and also having regard to the principle of natural justice and fair play, we deem it fit and appropriate to remand this matter back to the file of AO for a proper adjudication after giving opportunity of hearing to the assessee uninfluenced by his earlier order. We order accordingly. The assessee is also directed to ensure participation in the hearings fixed by AO and do not seek unnecessary adjournments.

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

Order pronounced in open court on 16.01.2024.

sd/-
(VIJAY PAL RAO)
JUDICIAL MEMBER

sd/-
(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 16.1.2024.

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