

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

श्री संदीप गोसाई, न्यायिक सदस्य एवं डा० मीठा लाल मीना, लेखा सदस्य के समक्ष  
BEFORE: SHRI SANDEEP GOSAIN, JM & Dr. MITHA LAL MEENA, AM

आयकर अपील सं./ITA No. 638/JP/2023  
निर्धारण वर्ष / Assessment Year : 2011-12

Smt. Santosh Sheshma Plot No. 23, Jhotwara Shree Narayan Extension, Benar Road, Jaipur-302 012	बनाम Vs.	The ITO Ward 4(3) Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: BBZPS 7708 A		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Anil Sharma, CA  
राजस्व की ओर से / Revenue by: Mrs. Monisha Choudhary, Addl CIT-DR

सुनवाई की तारीख / Date of Hearing : 30/01/2024  
उदघोषणा की तारीख / Date of Pronouncement: 31 /01/2024

आदेश / ORDER

PER: Dr. MITHA LAL MEENA, AM

This appeal filed by the assessee is directed against order of the ld. CIT(A) dated 06-07-2023, National Faceless Appeal Centre, Delhi [ hereinafter referred to as (NFAC) ] for the assessment year 2011-12 wherein the assessee has raised the following ground of appeal.

“1. Under the facts and circumstances of the case, the ld. CIT(A) is not justified in sustaining the addition of Rs.44,04,000/- towards alleged unexplained cash deposited into the bank.”

2.1 At the outset of the hearing, the Bench noted that there is delay of 45 days in filing the appeal by the assessee for which the assessee filed an affidavit praying therein as under to condone the delay:-

“1. The order dated 06-07-2023 of Id CIT(A) in faceless proceedings for the A.Y. 2011-12 was served on E-Mail ID of my tax consultant/ AR representing before Id. CIT(A) in E-proceedings.

2. The said A/R during the relevant period being extremely occupied in filing of time barring tax returns/ tax audits escaped from noting the above said order dated 06-07-2023 and thus could not communicate the same to the deponent.

3. My husband Shri Ramji Lal Sheshma visited the office of my tax consultant/AR on 03-10-2023 and inquired about my case, then it came to the notice of the A/R that my appeal has been disposed off by Id. CIT(A) vide relevant order dated 06-07-2023.

4. Thus my A/R informed me about the above said order dated 06-07-2023 and supplied copy of the same on 03-10-2023.

5. I immediately instructed the A/R to file appeal before Hon'ble Income Tax Appellate Tribunal against the order of the Id CIT(A) dated 06-07-2023 who filed appeal before Hon'ble ITAT on 19-10-2023.”

2.2 On the other hand, the Id. DR objected to such delay made by the assessee in filing the appeal.

2.3 We have heard both the parties and perused the affidavit of the assessee and feel that there is a merit in the submission of the assessee and thus in view of the affidavit of the assessee, the delay in filing the appeal by the assessee is condoned.

3.1 Apropos solitary ground of the assessee, it is noted that the ld.CIT(A) has dismissed the appeal of the assessee by holding as under:-

“10. It is pertinent to mention here that this office provided multiple opportunities of being heard as mentioned in para no. 3 above to the appellant. However, the assessee never responded. Under these circumstances, it is presumed that the appellant has nothing to state in this regard and the claims made by the appellant have no supporting evidence. The Assessing Officer has stated that Rs.44,04,000/- was found as cash deposits in the appellant's bank account during A.Y. 2010-11. The income offered by the appellant is not commensurate with the cash deposits. The law has created a deeming fiction to the extent that if the source of the deposits are not explained, such deposits would be deemed as his income. In the above circumstances, the undersigned is of considered view that the order passed by the AO needs no interference. Accordingly, this ground raised by the appellant is dismissed.

11. In the result, the appeal is dismissed. “

3.2 During the course of hearing, the ld. AR of the assessee prayed that the assessee was not provided adequate opportunity of hearing by the authorities below and also prayed that one more chance may be provided to contest the case before the ld. CIT(A) in order to settle the issue in question.

3.3 On the other hand, the ld. DR has objected to the prayer of the **ld CIT(A)** and also relied upon the order of the ld. CIT(A)

3.4 We have heard both the parties and perused the materials available on record. The Bench noticed that the ld. CIT(A) had provided various opportunities to the assessee to advance his submission with a view to settling the dispute in question (supra) but the assessee was really lethargic and unserious in pursuing his case in spite of providing various opportunities by the ld. CIT(A). It is undisputed fact that the assessee was granted several opportunities by the ld. CIT(A) as mentioned in the ld.CIT(A)'s order to argue the case but the assessee remained non-cooperative and negligent in pursuing his case on the dates of hearing of the appeal for which the Bench awards cost of Rs.2,000/- and the same may be deposited in the Prime Minister Relief Fund and copy of the same shall be submitted to the ld. CIT (A) for proof and thus the appeal of the assessee is restored to the file of the ld. CIT(A) to decide it afresh by providing one more opportunity of hearing, however, the assessee will not seek any adjournment on frivolous ground and remain cooperative during the course of proceedings. Thus the appeal of the assessee is allowed for statistical purposes.

3.5 Before parting, we may make it clear that our decision to restore the matter back to the file of the ld. 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

ld. CIT(A) independently in accordance with law.

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

Order pronounced in the open court on 31 /01/2024.

Sd/-

Sd/-

(संदीप गोसाईं)

(Sandeep Gosain)

न्यायिक सदस्य / Judicial Member

( डा० मीठा लाल मीना )

(Dr. Mitha Lal Meena)

लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 31 /01/2024

\*Mishra

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

1. The Appellant- Smt. Santosh Sheshma, Jaipur
2. प्रत्यर्था / The Respondent- The ITO, Ward 4(3), Jaipur
3. आयकर आयुक्त / The ld CIT
4. आयकर आयुक्त(अपील) / The ld CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 638/JP/2023)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar