

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

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

आयकर अपील सं./ITA No.754/JP/2023
निर्धारण वर्ष /Assessment Years :2014-15

Ram Sahay 91, Rager Mohalla Village -Lodhipura Sawaimadhopur, Rajasthan	बनाम Vs.	ITO, Ward-01, Sawai Madhopur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.:FIYPS 9660 D		
अपीलार्थी /Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से /Assessee by : Shri Manish Tatiwala (CA)
राजस्व की ओर से /Revenue by: Shri Arvind Kumar (CIT)

सुनवाई की तारीख /Date of Hearing : 18/01/2024
उदघोषणा की तारीख /Date of Pronouncement: /02/2024

आदेश /ORDER

PER: RATHOD KAMLESH JAYANTBHAI, AM

This appeal filed by assesseeis arising out of the order of the National Faceless Appeal Centre, Delhi dated 31/10/2023 [here in after (NFAC)] for assessment year 2014-15 which in turn arise from the order dated 20.12.2019 passed under section 147of the Income Tax Act, by the Income Tax Officer, Ward-1, Sawai Madhopur [here in after as Id. AO].

2. In this appeal, the assessee has raised following grounds: -

In the facts and circumstances of the appellant, the order passed was bad in law, violative of natural justice and illegal in nature and deserves to be quashed.

In the facts and circumstances of the appellant, the AO erred in framing order under section 147 without issuing notice u/s 143(2) being mandatory in the case of the assessee and deserves to be cancelled.

In the facts and circumstances of the appellant, the AO erred in not only ignoring the replies, but also passed hasty order on 20.12.2019, without rebutting the contentions of the assessee and making addition for Rs. 29562900/- as unexplained investment in land without any reason or basis.

In the facts and circumstances of the appellant, the AO erred in law as well as facts in making addition for Rs. 1574460/- of cash in hand without any reason or basis.

The appellant seeks your indulgence to add, delete, amend, modify any one or more of the Grounds of Appeal, before/during the hearing, before your good self.”

3. Succinctly, the fact as culled out from the records is that the assessee, an individual. He has filed his return of income declaring an interest income of Rs. 5689/- which has been assessed at Rs. 3,11,37,360/- by making addition for undisclosed investment in purchase of land at Rs. 2,95,62,900/- and value of cash in hand at Rs. 15,74,460/- without considering the detailed reply filed during the course of assessment

and ignoring the return filed in response to notice u/s 148 and also not issuing notice u/s 143(2).

4. Being aggrieved by the order of the Id. AO, the assessee filed an appeal before the Id. CIT(A). The Id. CIT(A) observed that notices were issued on 18.01.2021, 16.10.2023 and 25.10.2023 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) he has dismissed the appeal of the assessee ex-parte order. The extract of the order of the Id. CIT(A) is reproduced as under:-

“ Discussion and Decision

It is therefore seen that despite three opportunities being provided to the appellant over a span of more than two years, no response has been received from the appellant to any of the hearing notices served on it. From the above it is clear that despite several and adequate opportunities no submissions have been filed by the appellant in support of the present appeal. Hence the appeal filed by the appellant is liable to be dismissed for non-prosecution.

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6.1 In view of the above facts, it is clear that appellant is not interested in availing the opportunities provided to it of making submissions in support of the grounds of appeal filed by it. Therefore, after giving 3 notices for furnishing of submissions over a span of more than two years, the appeal is being decided based on material available and merits.

6.2 The matter has been considered. The order u/s 147 filed with Form 35 along

with statement of facts and grounds of appeal have been carefully examined. Videthe hearing notices the appellant was asked to furnish submissions in support of the grounds of appeal filed by him. However, despite the requests, the same have not been filed by the appellant till date despite 3 notices over a span of more than two years. In view of the same, there is no reason available on record for any change in the order of the AO as even during the appellate proceedings no response was furnished by the appellant before the Appellate Authority to any of the notices served on it. In view of all of the above the order u/s 147 of the AO is confirmed. Accordingly, all the grounds of appeal are dismissed.

7. In the result, the appeal of the appellant is dismissed.”

5. As the assessee did not find any favour from the order of the Id. CIT(A), the assessee has preferred the present appeal before this Tribunal on the ground as reproduced hereinabove. To support the various grounds so raised by the Id. AR of the assessee and has relied upon the following evidences in support of the contentions so raised:-

S.No.	Details of Documents	Page No.
1.	ITRV dated 23.12.2015	1
2.	ITRV Form No. 2 dated 23.12.2015	2 12
3.	ITRV dated 25.11.2019	13
4.	ITR Form No. 2 dated 25.11.2019	14 25
5.	Letter Seeking Reasons 25.11.2019	26
6.	Objection to Re-opening	27 35
7.	Order disposing objections	36 38
8.	Reply to show cause Notice 5.12.2019	39 40
9.	Bank Statement Ram Sahai	41 42
10.	Confirmation ORJ Developers	43
11.	ITRV ORJ Developers 31.7.2014	44
12.	Computation ORJ Developers	45
13.	Balance Sheet, Profit and Loss a/c with annexure	46 48
14.	Bank Statement ORJ Developers	49 53
15.	Assessment Order u/s 153A ORJ Developers	54 56
16.	CBDT Circular No. 19/2019 dated 14.08.2019	57 58
17.	Press Release 14.8.2019	59
18.	Certified True Copy of Note Sheet etc.	60 77

6. 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 on merits. The Id. AR of the assessee raised the issue of DIN not mentioned in the order but since there is no separate ground the Id. DR objected to the prayer of the assessee.

7. Per contra, the Id. 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 Id. CIT(A) should be sustained. As regards the DIN not mentioned the assessee has not raised the ground before the Id. CIT(A) and not in the appeal so filed by the assessee and therefore, the same cannot be adjudicated upon.

8. We have heard both the parties and perused the materials available on record. The Bench observed that the assessee was really lethargic and unserious in pursuing his case in spite of providing various opportunities by the Id. CIT(A) as mentioned in his order. The Id. CIT(A) noted that the

assessee was provided 3 opportunity of being heard but assessee has not availed and has not filed any submission in support of the contentions so raised by the assessee. Even the bench noted that the Id. CIT(A) has not decided the appeal of the assessee on merits and has dismissed the same on account of non prosecution considering the various decisions. Before us, Id. AR for the assessee submitted evidence to support his claim and has relied upon the evidence furnished in his paper book. The Id. AR of the assessee prayed that the if given a chance the assessee has sufficient reason to substantiate his case on merits. The bench noted that the assessee because of any reasons could not advance his arguments/submissions to contest the case before the lower authorities and the Id. AR for the assessee also prayed to give one more opportunity to submit the evidences concerning the issue in question, with grounds so raised by the assessee, to decide it afresh by providing one more opportunity of hearing. Considering the specific request and since the appeal of the assessee is not decided based on the merits of the case by the Id. CIT(A) we restore the matter to the file of the Id. CIT(A) who will decide the matter in accordance with the law and after providing sufficient opportunity of being heard to the assessee. However, the assessee will not

seek any adjournment on frivolous ground and remain cooperative during the course of proceedings before the Id. CIT(A).

9. 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 28/02/2024.

Sd/-

(डा० एस. सीतालक्ष्मी)
(Dr. S. Seethalakshmi)
न्यायिकसदस्य / Judicial Member

Sd/-

(राठोड कमलेश जयन्तभाई)
(Rathod Kamlesh Jayantbhai)
लेखासदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 28 /02/2024

*Santosh

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- Ram Sahay, Sawaimadhapur
2. प्रत्यर्थी / The Respondent- ITO, Ward-1, Sawai Madhopur
3. आयकरआयुक्त / The Id CIT
4. आयकर आयुक्त(अपील) / The Id CIT(A)
5. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्डफाईल / Guard File (ITA No. 754/JP/2023)

आदेशानुसार / By order,
सहायक पंजीकार / Asst. Registrar