

**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.490/Ind/2023**  
**Assessment Year: 2011-12**

Nooruddin Kazi, 112-114, Manas Bhawan, 11, RNT Marg, Indore	<b><u>बनाम/</u></b> Vs.	Income-tax Officer, Burhanpur
(Appellant/Assessee)		(Respondent/Revenue)
<b>PAN: ALBPK8950F</b>		
Assessee by	Shri Soumya Bumb, CA	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	02.04.2024	
Date of Pronouncement	02.04.2024	

**आदेश / O R D E R**

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

Feeling aggrieved by appeal-order dated 10.08.2023 passed by learned Commissioner of Income-Tax (Appeals), NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 08.11.2018 passed by learned ITO, Burhanpur ["AO"] u/s 144/147 of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2011-12, the assessee has filed this appeal.

2. Ld. AR for assessee initially drew our attention to the impugned order to show that the CIT(A) has passed an ex-parte order and dismissed assessee's first-appeal for non-prosecution. Then, he drew us to Form No. 35 (Appeal Memo) filed by assessee to CIT(A) wherein the email address: [Pankajshah@gmail.com](mailto:Pankajshah@gmail.com) was mentioned by assessee in the space provided for sending notices of hearings to assessee. Ld. AR submitted that the CIT(A), however, sent notices to the email address: [hashirkazi@gmail.com](mailto:hashirkazi@gmail.com) as is evident from a sample notice of hearing sent by CIT(A), copy filed before us. Therefore, Ld. AR submitted, the notices sent by CIT(A) never reached to the email address supplied by assessee and consequently the assessee was not aware of the hearings fixed by CIT(A) and could not make representation. Hence, the case should go back to the file of CIT(A) for an apt adjudication. The Ld. AR, however, went further on submitting that the assessment-order passed by AO is also ex-parte u/s 144/147 of the Act. Therefore, it would be more appropriate if this case is remanded back to the file of AO instead of CIT(A) so that the AO would be making a proper assessment after considering assessee's submissions vehemently. Ld. AR asserted that the assessee is ready and willing to make representation before AO if an opportunity is given. Ld. DR would not have any objection to the prayer of Ld. AR but makes a request to direct the assessee to represent his case before AO and do not seek unnecessary adjournments. Being so and having regard to the principle of natural justice and fair play, we remand this matter back to the file of AO for a proper adjudication on merit

after giving opportunity of hearing to the assessee, uninfluenced by his earlier order. The assessee is also directed to stay vigilant and ensure participation in the hearings fixed by AO and do not seek unnecessary adjournments. We order accordingly.

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

Order pronounced in open court on 02.04.2024 immediately on conclusion of hearing and subsequently reduced in writing.

Sd/-  
(VIJAY PAL RAO)  
JUDICIAL MEMBER

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

**Indore**

दिनांक /Dated : 02.04.2024  
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