

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

श्री संदीप गोसाई, न्यायिक सदस्य के समक्ष
BEFORE: Hon'ble SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 5/JP/2024
निर्धारण वर्ष/Assessment Year : 2011-12

Ashish Jain Plot No. 10, Rajawat Farm House, SFS Mansarovar, Jaipur	बनाम Vs.	The ITO Ward 1(3) Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AFUPJ 5816L		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारित की ओर से / Assessee by : Shri Sanjay Singh, Adv.
राजस्व की ओर से / Revenue by: Smt. Monisha Choudhary, Addl. CIT-DR

सुनवाई की तारीख / Date of Hearing : 20/03/2024
उद्घोषणा की तारीख / Date of Pronouncement: 28 /03/2024

आदेश / ORDER

PER: SANDEEP GOSAIN, JM

This appeal filed by the assessee is directed against order of the ld. CIT(A) dated 27-07-2023, National Faceless Appeal Centre, Delhi [hereinafter referred to as (NFAC)] for the assessment year 2011-12 raising grounds of appeal at Form No. 36.

2.1 At the outset of the hearing, the Bench noted that there is delay of 100 days in filing the appeal by the assessee for which the assessee filed an application dated 05-01-2024 for condonation of delay narrating therein his problem.

“I would like to inform you that I have received order from CIT(A) Jaipur dated 27-07-2023 and the time limit for filing appeal before Hon’ble ITAT expired on 26-09-2023 against said order.

There is delay of 99 to 100 days in filing the appeal before your Honour. This delay is due to leg accident.

Therefore, you are kindly requested to please condone the delay in filing appeal before ITAT”

It is also noted that the assessee submitted the Medical Certificate issued by Swai Man Singh Chikitsalaya, Jaipur (SMS -Govt of Rajasthan) as to his treatment (PB12-14)

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

2.3 The Bench has heard both the parties and perused the medical records of assessee and application for condonation of delay in filing the appeal. From these documents, it indicates that that there is a merit in the submission of the assessee

and thus in view of the submissions of the assessee, the delay in filing the appeal by the assessee is condoned.

3.1 Further the Bench at the time of hearing of the appeal noted that the ld. CIT(A) passed an ex-parte order by dismissing the appeal of the assessee and the narration as mentioned therein are as under:-

“3. The present appeal is against the order u/s 144 r.w.s. 147 of the I.T. Act, 1961 dated 05-12-2018 for the A.Y. 2011-12. I have carefully perused the grounds of appeal and order of the AO already available on record. The appellant has failed to file any documentary evidence before the AO to explain the impugned amount and the case was completed u/s 144 of the I.T. Act. During the appeal proceeding the appellant has neither filed any documentary to support the ground raised in the appeal nor is there any supporting evidence available on record in favour of the appellant. Since in the instant case, the appellant has not shown that the total addition of Rs.24,76,898/- by te AO was arbitrary and mala fide. I find no reason to interfere with the decision of the AO. Hence, appeal filed by the appellant is dismissed.”

3.2 After hearing both the parties and perusing the materials available on record, it is noted that the assessee has not filed any submissions and evidences relating to the case before the ld. CIT(A) and thus the ld. CIT(A) dismissed the appeal. It is

also noted that the ld. AR of the assessee prayed for one more chance to contest the case before the ld.CIT(A) while as the ld. DR relied on the order of the ld. CIT(A). The Bench feels that one more chance may be given to the Assessee to contest the case before the ld.CIT(A) and the appeal is restored to the file of the ld. CIT(A) for afresh adjudication and the assessee will submit the necessary documents / evidences concerning the above mentioned appeal. However, for lethargic and negligent action on the part of the assessee, therefore a cost of Rs.2,000/- is imposed upon the assessee and the same shall 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.

3.3 Before parting, the Bench makes it clear that its 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 28 /03/2024.

Sd/-

(संदीप गोसाई)

(Sandeep Gosain)

न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 28/03/2024

***Mishra**

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

1. The Appellant- Shri Ashish Jain, Jaipur
2. प्रत्यर्था / The Respondent- The ITO, Ward 1(3), Jaipur
3. आयकर आयुक्त / The Id CIT
4. आयकर आयुक्त(अपील) / The Id CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 5/JP/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar