

ITA NO. 74/JP/2024
SATISH KUMAR KHANDELWAL VS ITO, WARD 5(4), JAIPUR

आयकर अपीलीय 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. 74/JP/2024
निर्धारण वर्ष / Assessment Year : 2012-13

Satish Kumar Khandelwal 85-A, Anaj Mandi, Surajpole Jaipur	बनाम Vs.	The ITO Ward 5(4) Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AHRPK 9471 B		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

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

सुनवाई की तारीख / Date of Hearing : 12/03/2024
उदघोषणा की तारीख / Date of Pronouncement: 14 /03/2024

आदेश / ORDER

PER: SANDEEP GOSAIN, JM

This appeal filed by the assessee is directed against order of the ld. CIT(A) dated 28-11-2023, National Faceless Appeal Centre, Delhi [hereinafter referred to as (NFAC)] for the assessment year 2012-13 raising grounds of appeal at Form No. 36.

2.1 At the outset of the hearing, the Bench noted that the ld. CIT(A) passed an ex-parte order observing that 5.1....."the assessee has not submitted any argument much less any evidence in support of the grounds of appeal. Therefore, the order is

passed on the basis of the material already available on record. It is also noted at para 5.4 that ‘.....The assessee had not responded to the above show cause notice. In this ground the assessee has not made any argument as to why in absence of documentary evidence in support of the claimed expenditure, the same should be allowed. In absence of any fresh argument much less any documentary evidence this ground is also dismissed. Hence, the appeal of the assessee was partly allowed.

2.2 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 Id. CIT(A) and thus the Id.CIT(A) has no other alternative except to confirm the action of the AO. It is also noted that the Id. AR of the assessee prayed for one more chance to contest the case before the Id.CIT(A) while as the Id. DR relied on the orders of the Id. CIT(A). The Bench feels that one more chance may be given to the Assessee to contest the case before the Id.CIT(A) and the appeal is restored to the file of the Id. 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, the assessee is awarded 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 Id CIT(A) for proof and thus the appeal of the assessee is restored to the file of the Id. 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.

2.3 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 Id. CIT(A) independently in accordance with law.

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

Order pronounced in the open court on 14 /03/2024.

Sd/-

(डा० मीठा लाल मीना)
(Dr. Mitha Lal Meena)
लेखा सदस्य / Accountant Member

Sd/-

(संदीप गोसाईं)
(Sandeep Gosain)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 14 /03/2024

***Mishra**

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

1. The Appellant- Satish Kumar Khandelwal, Jaipur
2. प्रत्यर्थी / The Respondent- The ITO, Ward 5(4), 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. 74/JP/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar