

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. 284/JP/2024
निर्धारण वर्ष / Assessment Year : 2010-11

Shri Dev Vrat Das 107, Tonk Road, Barkat Nagar Jaipur- 302 015	बनाम Vs.	The ITO Ward 1(3) Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAZPD 9872 D		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : None
राजस्व की ओर से / Revenue by: Mrs. Monisha Choudhary, Addl. CIT

सुनवाई की तारीख / Date of Hearing: 16/04/2024
उदघोषणा की तारीख / Date of Pronouncement: 23/04/2024

आदेश / ORDER

PER: SANDEEP GOSAIN, JM

This appeal filed by the assessee is directed against order of the ld. CIT(A) dated 31-01-2024, National Faceless Appeal Centre, Delhi [hereinafter referred to as (NFAC)] for the assessment year 2010-11 wherein the assessee has raised the following grounds of appeal.

“1. In the facts and circumstances of the case and in law, the ld.CIT(A) has erred in confirming the action of the AO in opening of case under section 147 of the Income Tax Act, 1961. The action of the ld. CIT(A) and AO is illegal, unjustified,

arbitrary and against the facts of the case. Relief may please be granted by quashing the said assessment order.

2. In the facts and circumstances of the case and in law, the ld. CIT(A) has erred in confirming the action of the AO of adding the amount of Rs.3,54,713/-.The action of the ld. CIT(A) and AO is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the said additions..

2.1 Brief facts of the case are that the assessee is a senior citizen having no active income except FDR interest income. The return of income for the A.Y. under consideration was not filed by the assessee as the total income for the year was less than the basic exemption limit. Further assessment u/s 147 was completed vide order dated 09-12-2017 at a total income of Rs.3,54,713/-, creating the demand of Rs.80,920/-.

2.2 In this case, it is noted that on the date of hearing, none appeared on behalf of the assessee when the case was called out. Therefore, in the absence of the assessee as well as the ld. AR, the adjournment application of the assessee was dismissed. It is also observed that since the ld. DR at the time of hearing was ready for arguing the case, therefore, we have decided to proceed in the matter.

2.3 After hearing the ld. DR and perusing the material placed on record including the orders of the lower authorities, it is noted that there was non-cooperation on behalf of the assessee before the ld. CIT(A) who passed ex-parte

order. It is also noted that the assessee has filed an application dated 16-04-2024 for admission of additional evidence on the ground that *the assessee is a single person family and have no one else in the his family. He himself f manages his livelihood from FDR interest income only. Due to his age and no family support, he could not check notices from income tax department.* It is noted from his submission that at the same time, the AO made an addition on ground of old FDR of the assessee which was continued from previous year. The copy of the statement is also filed as per annexure 1. It is noted that as per the statement opening balance showing Rs.2,47,979/- and interest credited during the year in the said FD is Rs.49,766/-. Thus there was TDS of Rs.1955/- and accordingly closing balance of FD is Rs.2,95,690/-. The interest income is evident from the Form 26AS of the relevant assessment year. The assessee has filed Form 26AS in Annexure II for reference. It was also mentioned in the application for admission of additional evidence that these evidences are very vital and crucial to the issue under appeal. After going through the contents of the application and also hearing the Id.DR who strongly objected to the said application, we are of the view that application of additional evidence needs to be allowed in view of the decision of ITAT Patna Bench, Third Member, Abhay Kumar Shroff vs ITO (ITA No. 95 & 193/Pat/1993, for A.Y. 1989-90(1997) 63 ITD 144 wherein it has been held that *where additional evidence enables the Tribunal to pass order or for any other*

substantial cause it can admit the same. Keeping in view of the above facts, circumstances of the case and the case law (supra), the Bench feels that in order to give justice to the parties, these documents are required to verify by the AO in connection with the appeal of the assessee and thus allow the relief as per law. Hence, the appeal of the assessee is allowed for statistical purpose and the assessee is directed to produce the same before the AO to square up the case.

3.0 In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 23/04/2024.

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

जयपुर / Jaipur

दिनांक / Dated:- 23 /04/2024

*Mishra

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

1. The Appellant- Shri Dev Varat Das, Jaipur
2. प्रत्यर्थी / 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. 284/JP/2024)

आदेशानुसार / By order,

Asstt. Registrar