

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

श्रीसंदीपगोसाई,न्यायिकसदस्य एवंश्रीराठोडकमलेशजयन्तभाई, लेखा सदस्य के समक्ष
BEFORE: SHRI SANDEEP GOSAIN, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA No. 745/JP/2023
निर्धारण वर्ष / Assessment Year : 2017-18

M/s. Govind Paper Traders Kotwala Building, Tripolia Bazar Jaipur	बनाम Vs.	The ITO Ward 1(3) Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AANFG 9927 H		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Rajiv Sogani, CA.
राजस्व की ओर से / Revenue by: Shri Anoop Singh, Addl CIT-DR

सुनवाई की तारीख / Date of Hearing : 18/01/2024
उदघोषणा की तारीख / Date of Pronouncement: /04/2024

आदेश / ORDER

PER: SHRI SANDEEP GOSAIN, JM

This appeal filed by the assessee is directed against order of the Id. CIT(A) dated 06-11-2023, National Faceless Appeal Centre, Delhi [hereinafter referred to as (NFAC)] for the assessment year 2017-18 wherein the assessee has raised the following ground of appeal.

“1. In the facts and circumstances of the case and in law Id. CIT(A)/NFAC has erred in passing the order ex-parte against assessee firm. The of action the the Id. CIT(A)/NFAC is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by

quashing the entire order being against the principles of natural justice.

2. In the facts and circumstances of the case and in law, Id. CIT(A) /NFAC has erred in confirming the action of the Id. AO in making addition of Rs 52,28,614 u/s 68. The action of the Id. CIT(A) /NFAC is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting such entire addition of Rs 52,28,614/-

3. In the facts and circumstances of the case and in law, Id. CIT(A) has erred in confirming the action of the Id. AO in invoking the provisions of section 115BBE of the IT Act, 1961 for levy of tax on the addition of Rs. 52,28,614. The action of the Id. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the invocation of the provision of Section 115BE of the I.T. Act, 1961''

2.1 Apropos grounds of appeal of the assessee, it is noted that the Id.CIT(A) has dismissed the appeal of the assessee by holding as under:-

4. Decision: I have carefully considered the facts on record, the assessment order, Grounds of appeal and statement of facts furnished by the appellant with the appeal memo.

4.1 As stated in earlier paragraph of this appeal order, this office has issued various notices for hearing/filing written submission but neither any adjournment letter was filed nor filed any written submissions. The notices were issued on email available in the ITBA Module of the Income Tax Department. No reply has been received in response to these notices till date.

4.2 From the above conduct of the appellant, it is evident that the appellant is no more interested in pursuing its appeal. The Hon'ble Supreme Court in the case of CIT Vs B.N.Bhattacharjee & Others [1979] 10 CTR 354 (SC) observed that preferring an appeal, means effectively pursuing it. The Hon'ble M.P. High Court in the case of Estate of Late Tukojirao Holkar Vs CWT [1979] 223 ITR 480 (MP) dismissed the reference filed at the instance of the assessee for default and for not taking necessary steps. Considering the conduct of the assessee in the present circumstance, I am of the view that the appellant is not interested in pursuing the appeal. This view has been affirmed by the ITAT Delhi Bench in the case of CIT VS Multiplan India Pvt. Ltd. [1991] 38 ITD 320 (Del) wherein the ITAT had dismissed the appeal filed by the assessee for want of persuasion. Under these circumstances, the present appeal of the appellant is liable to be dismissed.

4.3 Since there is no submission or material available on record relating to merit and in support of grounds on appeal as well as statement of facts, appeal is liable to be dismissed.

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

2.2 During the course of hearing, the ld. AR of the assessee prayed that the assessee was not provided adequate opportunity of hearing by the authorities below and also prayed that one more chance may be provided to contest the case before the AO in order to settle the issue in question. It may be noted that the ld. AR of the assessee has not filed any written submission before us to counter the order of the ld. CIT(A) which is an ex-parte order.

2.3 On the other hand, the ld. DR has objected to the prayer of the ld. AR of the assessee and also relied upon the orders of the lower authorities

2.4 We have heard both the parties and perused the materials available on record. The Bench noticed that the Id. CIT(A) had provided various opportunities to the assessee to advance his submission with a view to settling the dispute in question (supra) but the assessee was really lethargic and unserious in pursuing its case in spite of providing various opportunities by the Id. CIT(A). It is undisputed fact that the assessee was granted several opportunities by the lower authorities to argue the case but the assessee remained non-cooperative and negligent in pursuing its case on the dates of hearing of the appeal for which the Bench imposes 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 AO for proof and thus the appeal of the assessee is restored to the file of the AO 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.

2.5 Before parting, we may make it clear that our decision to restore the matter back to the file of the AO shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by AO 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 15 /04/2024.

Sd/-

(राठोडकमलेशजयन्तभाई)
(Rathod Kamlesh Jayantbhai)
लेखासदस्य / Accountant Member

Sd/-

(संदीप गोसाई)
(Sandeep Gosain)
न्यायिकसदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 15 /04/2024

*Mishra

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

1. The Appellant-Govind Paper Traders, 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. 745/JP/2023)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar