

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. 34/Ind/2024
Assessment Year: 2017-18

Shri Mayank Tiwari, 54, Anoop Nagar, A.B. Road, Indore.	<u>बनाम/</u> Vs.	Income-tax Officer, 3(2), Indore.
(Assessee/Appellant)		(Revenue/Respondent)
PAN: AHVPT0169P		
Assessee by	Shri Harsh Vijayvargiya, CA & AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	08.05.2024	
Date of Pronouncement	09.05.2024	

आदेश / O R D E R

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

Feeling aggrieved by appeal-order dated 07.12.2023 passed by learned Commissioner of Income-Tax (Appeals), NFAC, Delhi ["CIT(A)"], which in turn arises out of assessment-order dated 30.11.2019 passed by learned ITO, 3(2), Indore, ["AO"] u/s 143(3) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2017-18, the assessee has filed this appeal.

2. The background facts leading to present appeal are such that the assessee-individual filed return of income of AY 2017-18 declaring total income of Rs. 1,15,570/- which was subsequently revised with total income

at Rs. Nil. The case of assessee was selected for limited scrutiny and the AO issued notices u/s 143(2)/142(1). Ultimately, the AO passed assessment-order determining total income at Rs. 36,85,300/-. Aggrieved, the assessee filed first appeal to CIT(A) but could not succeed. Still aggrieved, the assessee has come in next appeal before us.

3. Ld. AR for assessee carried us firstly to the order of AO and submitted that the AO assessed total income after making (i) a disallowance of Rs. 15,45,591/- being the loss claimed by assessee under the head "Income from House Property" on account of deduction of interest on loan taken from bank and (ii) an addition of Rs. 21,39,708/- on account of unexplained investment in purchase of house property u/s 69. Ld. AR demonstrated that the both of these additions have been made by the AO for the reason that the AO demanded certain evidences from assessee but the assessee was not able to furnish replies before him. Then, Ld. AR carried us to the order of first-appeal passed by CIT(A) to show that the assessee filed the required documents by way of additional evidences to CIT(A) under rule 46A of Income Tax Rules, 1962 but Ld. CIT(A) has summarily declined to admit the same with the reasoning that the AO had given sufficient time to produce evidences but the assessee himself did not file. Ld. AR submitted that the assessee made compliances of initial two notices issued by AO which is clearly evident from the acknowledgements downloaded from income-tax web portal, copies filed before us. But, thereafter, the assessee was unable to respond to subsequent notices because he shifted to USA. However, the assessee is very much willing and ready to make compliances and that is why submitted evidences before CIT(A). Ld. AR acknowledges that if an opportunity is given, the assessee shall make adequate representation to AO and extend fullest co-operation for determination of income in accordance with provisions of law. Accordingly, Ld. AR prays for remanding this case to AO. Ld. DR for revenue does not have any objection if the case is remanded

to AO. In view of consensus agreed by both sides and also to grant one more opportunity to assessee in the interest of justice, we restore this matter to the file of AO for assessment afresh. The assessee is strictly directed to make compliances on the hearings to be fixed by AO and ensure proper representation failing which the AO shall be at liberty to pass order as though fit by him in accordance with law.

6. Resultantly, this appeal is allowed for statistical purpose.

Order pronounced in open court on 09.05.2024

Sd/-
(VIJAY PAL RAO)
JUDICIAL MEMBER

sd/
(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 09.05.2024

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