

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. 321/JP/2024
निर्धारण वर्ष/Assessment Year : 2012-13

Shri Shiv Lal Meena A-II, 10, Apartment Bajaj Nagar Jaipur – 302 015	बनाम Vs.	The ITO Ward 6(4) Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: ACFPM 0014 M		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Shiv Lal Meena, - Self
राजस्व की ओर से / Revenue by: Mrs. Monisha Chaudhary Addl. CIT

सुनवाई की तारीख / Date of Hearing : 02/05/2024
उदघोषणा की तारीख / Date of Pronouncement: 28 /05/2024

आदेश / ORDER

PER: SANDEEP GOSAIN, JM

This appeal filed by the assessee is directed against order of the Id. CIT(A) dated 14-09-2023, National Faceless Appeal Centre, Delhi [hereinafter referred to as (NFAC)] for the assessment year 2012-1 raising the solitary ground of appeal as under:-

"That the Id. CIT(A) has erred in facts and in law in confirming the addition of Rs.20 Lacs considering the deposit in the bank as unexplained."

2.1 In this appeal, it is noted that the Id. CIT(A) dismissed the appeal of the

assessee by holding as under:-

"4.4 Though the appellant has not offered 'YES' comments at Sl. No. 9 Form 35, it was asked vide DIN & letter No.ITBA/NFAC/F/17/2023-24/1054563877(1) dated 25-07-2022 to intimate whether it has made payment of tax which includes element of advance tax also in compliance of demand u/s 156 of the Act but the appellant made no compliance to this letter.

7. Since the appellant has not filed return of income as well as not paid an amount equal to the amount of advance tax which was payable by it, present appeal is not liable to be admitted. The appeal is infructuous and is, therefore, dismissed.

8. The appeal is dismissed."

2.2 At the outset of the hearing, the Bench noted that there is delay of 126 days in filing the appeal for which the assessee filed an affidavit mainly praying therein as under:-

"1. That the appeal filed by me before the CIT(A) was disposed off by order dated 14-09-2023 passed by CIT(A), NFAC, Delhi

2 That the time for filing appeal before the Tribunal was to expire on 13-11-2023.

3. That the CIT(A) order was served on the E-Mail and that not come in my notice as due to senior age I was not able to understand and handle the emails. I received notice from the Department u/s 245 then I contacted the JAO and come to know about the order passed by CIT(A).

4. I received true certified copy from JAO on 04-03-2024 and submitted appeal your goodself on 18-03-2024 at online portal.

5. That the memo of appeal has been filed on 18-03-2024 in the office of the Tribunal.

6. That I had no intention to jeopardize the interest of the Revenue by delaying the filing of the appeal.

2.3 On the other hand, the Id. DR objected to such delay of 126 in filing the appeal by the assessee.

2.4 The Bench has heard both the parties and perused the materials available on record. In this case, the assessee aged about 73 years old appeared before the bench explaining the reasons mentioned hereinabove. The Bench noted that the case of the assessee was ex-parte before the Id. CIT(A) and AO who dismissed the appeal of the assessee because of his casual and cavalier approach in not prosecuting the appeal. However, the Bench feels taking into consideration of the averment of the fact that the assessee is a senior citizen of about 73 years old having no knowledge of handling the e-mail and could not come to know about passing of the order of the Id. CIT(A). The Bench further feels that in view of the peculiar facts and circumstances of the case and also not handling the email by the Senior Citizen, the delay of 126 is condoned with the direction to the assessee to contest the case before the AO and submit the necessary documents before the AO. Since, 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 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, the Bench makes it clear that its 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 28/05/2024.

Sd/-

(संदीप गोसाईं)

(Sandeep Gosain)

न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 28 /05/2024

*Mishra

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

1. The Appellant- Shri Shiv Lal Meena, Jaipur
2. प्रत्यर्थी / The Respondent- ITO, Ward -6 (4), Jaipur
3. आयकर आयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No.321/JP/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar

