

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. 619 & 618/JP/2024
निर्धारण वर्ष / Assessment Year : 2009-10

M/s. Singodwala Developers (P) Ltd. 16, Shri Govind Villa Sector-9, Vidhyadhar Nagar Jaipur 308-023	बनाम Vs.	The ITO Ward- 3(3) Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAKCS 9092 B		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

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

सुनवाई की तारीख / Date of Hearing : 10/06/2024
उदघोषणा की तारीख / Date of Pronouncement: /06/2024

आदेश / ORDER

PER: SANDEEP GOSAIN, JM

Both these appeals have been filed by the assessee against two different orders of the Id. CIT(A) dated 06-03-2024, National Faceless Appeal Centre, Delhi [hereinafter referred to as (NFAC)] for the assessment year 2010-11 in the matter of Section 147/144 of the Act (quantum appeal) and Section 271(1)(c) of the Act (Penalty appeal) raising the grounds of appeal as mentioned in Form 36 of respective appeals.

2.1 First of all, the Bench takes up the quantum appeal of the assessee in ITA No. 619/JP/2024 wherein it is noticed that the assessee was ex-parte before the AO who made the addition of Rs.8,66,250/- towards income from undisclosed sources.

2.2 Apart from this, it is also noted from the records that there was delay by the assessee while filing the appeal before the Id. CIT(A) and thus the Id. CIT(A) dismissed the appeal of the assessee on two counts.

- (i) On account of delay in filing the appeal.
- (ii) And also on merits of the case, the assessee could not controvert the findings of the AO.

2.3 After hearing both the parties and perusing the materials available on record, it is noted that the assessee was deprived off to contest the case before the lower authorities and Id. AR of the assessee also requested for providing one more chance to contest the case before the AO as a gesture of equity and justice. However, the Id DR supported the orders of the lower authorities.

2.4 Be that as it may since it is an admitted fact that the assessee is ex-parte before the AO and also before the Id. CIT(A). Therefore, he could not put forth his defence. It was the bounded duty of the assessee to appear before the statutory authorities as and when called for. It is noticed that various opportunities were provided to the assessee for settling the issue but the assessee remained lethargic

and unserious in pursuing his case for which a cost of Rs.2.000/- is imposed upon the assessee which will be deposited by the assessee in the Prime Minister Relief Fund. However, I am of the view that lis between the parties has to be decided on merits so that nobody's rights could be scuttled down without providing opportunity of being heard to the assessee. Hence, the matter 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.

3.1 As regards the penalty appeal of the assessee relating to Section 271(1) © of the Act, the Bench feels that since the quantum appeal of the assessee has been restored to the file of the AO for afresh adjudication, therefore the fate of penalty appeal will be in accordance with decision of quantum appeal. Hence, the same is restored to the file of AO to act in accordance with law.

4.0 In the result, the both the appeals of the assessee are allowed for statistical purposes as indicated hereinabove.

Order pronounced in the open court on 18 /06/2024.

Sd/-

(संदीप गोसाई)

(Sandeep Gosain)

न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 18 /06/2024

*Mishra

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

1. The Appellant- M.s. Singodwala Developers (P) Ltd. Jaipur
2. प्रत्यर्थी / The Respondent- The ITO, Ward -3(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. 619/JP/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar