

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.59/Ind/2023**  
**(Assessment Year:2013-14)**

Dinesh Kumar Gour 102, Gour Bhawan, Shyampur Road Mandi Sehore	Vs.	ITO-3(1) Sehore
(Appellant / Assessee)		(Respondent/ Revenue)
<b>PAN: AGXPG2044F</b>		
Assessee by	None	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	30.05.2023	
Date of Pronouncement	31.05.2023	

**O R D E R**

**Per Vijay Pal Rao, JM:**

This appeal by the assessee is directed against the order dated 28.09.2022 of Ld. Commissioner of Income Tax (Appeals) (in short Ld. CIT(A), National Faceless Appeal Centre, Delhi for Assessment Year 2013-14.

2. None has appeared on behalf of the assessee however, we note that the Ld. CIT(A) has dismissed the appeal of the assessee for want of any submissions/explanation in support of the grounds of appeal. Ld. CIT(A) has not discussed or adjudicated the grounds of appeal on merits while passing non-speaking order. Accordingly we propose to hear and disposed of this appeal *ex-parte*.

3. There is a delay of 87 days in filing the present appeal. The assessee has filed an application for condonation of delay which is supported by affidavit of the assessee proprietor. The assessee has explained cause of delay that he was seriously ill, as suffering from cardiac disease during the period of September 2022 to January 2023 and therefore, he could not take necessary steps for filing the present appeal.

4. Ld. DR has not objected to the condonation of delay. Accordingly having considered reasons of delay explained in the application as well as in the supporting affidavit we are satisfied that the assessee was having a reasonable cause for delay in filing present appeal. Accordingly delay of 87 days of present appeal is condoned. The assessee has raised following grounds of appeal:

*1. That on the facts and in the circumstances of the case, the decision of the learned lower authorities is contrary to law, materially incorrect, and unsustainable in law as well as facts. And that all the adverse findings recorded therein are opposed to facts equity and law.*

*2. That on the facts and in the circumstances of the case, and in law, the initiation of proceedings u/s 47 of the IT Act is without jurisdiction and the issue of notice do not satisfy the judicial requirements of the law and therefore the assessment is bad in law and without jurisdiction hence the same be kindly cancelled.*

*3. That on the facts and in the circumstances of the case and in law, the learned lower authorities erred in their findings and estimating the unexplained investment in MCX at Rs.5,00,00.00 such findings are wholly injudicious and opposed to facts and therefore be quashed and the addition of Rs.5,00,000/- as per para 5 of the order is wholly unjustified and unlawful and therefore the said unlawful and unjustified addition be kindly deleted.*

*4. That on the facts and in the circumstances of the case and in law, the Learned lower authorities erred in their finding and estimating the income of the appellant at Rs.3,00,000/- such findings are wholly injudicious and opposed to facts and therefore be quashed and the addition of Rs.3,00,000/- as per para 5 of the order is wholly unjustified and unlawful and therefore the said unlawful and unjustified addition be kindly deleted.*

5. We have heard ld. DR and carefully perused the impugned order. The Ld. CIT(A) has dismissed the appeal of the assessee *ex-parte* without giving the finding on the grounds raised by the assessee. Therefore, the impugned order of the Ld. CIT(A) is not in accordance with the provision of section 250(6) of the Act. Accordingly in the facts and circumstances of the case when the appeal of the assessee was not decided by Ld. CIT(A) on merits the impugned order is set aside and matter is remanded to the record of the Ld. CIT(A) for fresh adjudication of the appeal of the assessee on merits after giving an opportunity of hearing to the assessee.

6. In the result, appeal of assessee is allowed for statistical purposes.

Order pronounced in the open court on 31.05.2023.

**Sd/-**

**(B.M. BIYANI)**  
Accountant Member

**Indore, 31.05.2023**

**Patel/Sr. PS**

Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File

**Sd/-**

**(VIJAY PAL RAO)**  
Judicial Member

*By order*

*Sr. Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore*