

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. 689/JP/2023
निर्धारण वर्ष / Assessment Year : 2017-18

Shri Raj Kumar Asnani C-6, Jayanti Market, M.I. Road Jaipur	बनाम Vs.	The ITO Ward -2(2) Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: ABHPA 3918 M		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Puneet Kumar Pareek-Proxy
राजस्व की ओर से / Revenue by: Smt. Monisha Choudhary, Addl. CIT-DR

सुनवाई की तारीख / Date of Hearing : 23/04/2024
उदघोषणा की तारीख / Date of Pronouncement: 10 /07/2024

आदेश / ORDER

PER: SANDEEP GOSAIN, JM

This appeal filed by the assessee is directed against order of the Id. CIT(A) dated 30-10-2023, National Faceless Appeal Centre, Delhi [hereinafter referred to as (NFAC)] for the assessment year 2017-18 raising ground of appeal as mentioned at Form No. 36.

2.1 At the outset of the hearing, the Bench noticed that an adjournment application was filed by the Id. AR of the assessee. However, on going thorough the case file, the Bench found that the assessee was ex-parte before the Id.CIT(A) and

no material was placed on record by the assessee before the Revenue Authorities.

Therefore, the Bench is not inclined to adjourn the present appeal and thus the adjournment application is dismissed. Therefore, the Bench decided to dispose off the appeal of the assessee based on the materials available on record.

2.2 On the other hand, the ld. DR is ready to argue the case.

2.3 The Bench has heard the Proxy of the assessee as well as ld. DR and gone through the orders passed by the lower authorities. It is noticed that since the order passed by the ld. CIT(A) is ex-parte because of non-submission of documents / details by the assessee, therefore the appeal of the assessee was dismissed. The relevant narration of the ld. CIT(A) are as under:-

“7. In view of the above, the undersigned is left with no option but to decide the case on the basis of material on record. Bare perusal of the facts shows that the appellant has not pursued the appeal despite being several opportunities as elaborated supra. The assessee has further jeopardized its case by not responding despite several opportunities that were provided. I am constrained to agree with the approach adopted by the AO imposing penalty. The AO has passed a reasoned and speaking penalty order considering all the facts and the circumstances of the case and no interference with the order of the AO is called for. The grounds of appeal are therefore, dismissed.

8. Thus, in view of the facts and circumstances of the case, the penalty order passed u/s 270A of the Act dated 28-09-2022 by the AO is upheld.

9. In the result, the appeal of the assessee is dismissed.”

2.4 The Bench further noticed that present appeal relates to imposition of penalty u/s 270A of the Act and it has brought to the notice of the Bench that quantum appeal is still pending before the ld. CIT(A) in which the ld. AR of the assessee has claimed that he has already filed the written submission and paper book in support of his contentions. Therefore, considering these facts, circumstances and also keeping in view the principles of natural justice, the Bench restores the matter back to the file of the ld. CIT(A) by granting one more opportunity to the assessee subject to cost of Rs.1,000/- which will be deposited in the Prime Minister Relief Fund and copy of the same shall be submitted to the ld. CIT(A) for proof and thus the appeal of the assessee is restored to the file of the ld. CIT(A) 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 ld. CIT(A) shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by ld. CIT(A) 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 10 /07/2024.

Sd/-

(Sandeep Gosain)

न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 10 /07/2024

*Mishra

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

1. The Appellant- Shri Raj Kumar Asnani Jaipur
2. प्रत्यर्थी / The Respondent- The ITO, Ward 2(1), 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. 689/JP/2023)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar