

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. 719/JP/2024
निर्धारण वर्ष / Assessment Year : 2017-18

Mrs. Rukshmani Singh Nathawat 16, Devi Bhawan, Privahan Marg Civil Lines, Railway Crossing C-Scheme, Jaipur 302 001	बनाम Vs.	The ITO Ward – 2(3) Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AGCPM 5030 H		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Ms. Paridhdi Jain, Adv.
राजस्व की ओर से / Revenue by: Mrs. Monisha Choudhary, Addl. CIT-DR

सुनवाई की तारीख / Date of Hearing : 24/06/2024
उदघोषणा की तारीख / Date of Pronouncement: 07/08/2024

आदेश / ORDER

PER: SANDEEP GOSAIN, JM

This appeal filed by the assessee is directed against order of the ld. CIT(A) dated 26-02-2024, National Faceless Appeal Centre, Delhi [hereinafter referred to as (NFAC)] for the assessment year 2017-18 raising grounds of appeal in Form 36.

2.1 At the outset of the hearing, the Bench noted that there is delay of 24 days in filing the appeal by the assessee for which the assessee has filed an application for condonation of delay and mainly submitted as under:-

“4. In these circumstances the order passed by the NFAC (A) on 26-02-2024 and posted on the income tax portal had come to the knowledge of the appellant in the first week of May, 2024. The assessee firm immediately forwarded the papers and consulted to another profession to look into the order and advice. He advised the assessee firm to file a belated appeal to the ITAT against the order of the NFAC(A) with the application for condonation of delay narrating the true facts. Accordingly, the appellant is filing the appeal to TITAT and requests to condone the delay of 24 days in filing the appeal as delay happened due to sufficient knowledge and information with the appellant regarding income tax matters and had no knowledge of the profession of the Income Tax Act, had completely relied on the professional.”

2.2 On the other hand, the Id DR objected for such delay in filing the appeal by the assessee but submitted that the Court may decide the issue as deem fit and proper in the case.

2.3 The Bench has heard both the parties and perused the materials available on record. The Bench noted that there is a merit in the submission of the assessee for late filing of appeal which is allowed.

3.1 As regards the main appeal of the assessee, the Bench noted that the assessee was ex-parte before the AO as well as before the Id CIT(A). From the appeal of the

ITA NO. 719/JP/2024

MRS RUKSHMANI SINGH NATHAWAT VS ITO WARD 2(3), JAIPUR

assessee, it is noted that the AO made an addition of Rs.12.00 lacs in the hands of the assessee by observing as under:-

“9. The assessee has made cash deposits amounting to Rs.12,00,000/- appearing in bank account in the F.Y. 2016-17 relevant to A.Y. 2017-18 remained unexplained. The assessee has not responded to notice u/s 142(1) issued during assessment proceedings. The assessee failed to give any explanation about the nature and source of cash deposits, hence the value of cash deposits of Rs.12,00,000- appearing in Andhara Bank Account is deemed as unexplained money u/s 69A of the Income Tax Act, 1961 and added to the total income of the assessee. The total income assessed is taxed u/s 115BBE of the Act at the rate or 60”.

The ld. CIT(A) as mentioned at para 4 of his order provided 9th opportunities to the assessee but the assessee did not furnish any document. Hence, in the absence of any supporting document, the ld.CIT(A) confirmed the action of the AO and thus upheld the addition made by the AO amounting to Rs.12.00 lacs on account of unexplained money u/s 69A of the Act.

3.2 During the course of hearing, the ld. Counsel of the assessee has filed a detailed written submission and submitted that the assessee is a widow of an Indian Army Officer who receives family pension from India Army, Rental income and Interest income from FDR's and saving Bank A/c's LIC during the year under consideration. The assessee is a homemaker and law abiding citizen and has been paying income tax for many years. The ld. Counsel further submitted that the appeal of the appellant should not be dismissed on the grounds of non-compliance

and without considering the merits of the case. The Id.Counsel relied upon the decision of ITAT Chandigarh Bench in the case of Iqbal Singh HUF vs DCIT)ITA No. 2/CHD/2022 dated 06-06-2023 in which the Bench held that non-compliance of the order of the Id. CIT(A) cannot be the sole reason to justify an addition on the tax payer. The ITAT set aside the ex-parte order and restored the appeal to the NFAC for a fresh decision. Consequently, the Id Counsel for the assessee prayed to restore the matter to the file of the AO for afresh decision.

3.3 On the other hand, the Id. DR supported the order of the Id. CIT(A).

3.4 The Bench has heard both the parties and perused the materials available on record. The Bench noted that it is an admitted fact that the assessee is ex-parte before the AO and also before the Id. CIT(A). Therefore, she could not put forth her 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 her 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,

ITA NO. 719/JP/2024

MRS RUKSHMANI SINGH NATHAWAT VS ITO WARD 2(3), JAIPUR

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.

3.5 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.

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

Order pronounced in the open court on 07/08/2024.

Sd/-

(संदीप गोसाईं)

(Sandeep Gosain)

न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 07/08/2024

*Mishra

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

1. The Appellant- Mrs. Rukshmani Singh Nathawat, Jaipur
2. प्रत्यर्थी / The Respondent- The ITO, Ward- 2 (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. 719/JP/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar