

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. 592/JP/2024
निर्धारण वर्ष / Assessment Year : 2009-10

Smt. Santosh Devi Agarwal 43, Opp. Road No. 4VKI Area Jaipur	बनाम Vs.	The ITO Ward 4 (3) Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: ABSPA 1591 P		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

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

सुनवाई की तारीख / Date of Hearing : 13/06/2024
उदघोषणा की तारीख / Date of Pronouncement: 12 /08/2024

आदेश / ORDER

PER: SANDEEP GOSAIN, JM

This appeal filed by the assessee is directed against order of the ld. CIT(A) dated 25-03-2024, National Faceless Appeal Centre, Delhi [hereinafter referred to as (NFAC)] for the assessment year 2009-10 raising therein following grounds of appeal.

"1. That the order passed by the Ld. Commissioner of Income Tax (NFAC), Delhi is bad in law, wrong on the facts and against the principles of natural justice.

2. That the Ld. CIT (Appeals) has erred on facts and in law in confirming the addition of Rs. 8,26,495/- on account of undisclosed source of income u/s 68 of the I.T. Act, 1961 to the income of the appellant on this count is wrong, unwarranted and bad in law. Kindly delete the addition.

3. That the Ld. CIT (Appeals) has erred on facts and in law in confirming the disallowance of deduction u/s 80C of the I.T. Act, 1961 to the income of the appellant on this count is wrong, unwarranted and bad in law. Kindly delete the addition.

2.1 Apropos Ground No. 1 to 3 of the assessee, the facts as emerges from the order of the ld. CIT(A) wherein the ld. CIT(A) dismissed the appeal of the assessee by observing at para 1 to 4 of his order as under:-

“1. In ground no.1, assessee disputes addition of Rs.826495 without stating any particular reason. The AO found out that the assessee had no source of deposits except Rs.585505 (519505+66000) against 1412000 deposited in bank account. The source of these deposits of Rs.826495 remained unexplained and was rightly added by the AO to the total income. The assessee's ground on this issue is dismissed.

2. In ground no.2 assessee disputes disallowance of claim of deduction u/s 80C. No such claim was made in the ITR filed in response to notice u/s 148 nor did the assessee produce any evidence in support of the same. The assessee is not eligible for claiming deduction u/s 80C without making any claim in the ITR. The AO rightly denied its claim u/s 80C made without any valid reason.

3. Ground no.3 is general in nature and does not require any separate adjudication.

4. The appeal filed by the assessee is dismissed.

2.2 During the course of hearing, the ld. AR of the assessee that he had not received any notice /communication from the ld. CIT(A) to attend the case or to submit the reply. Thus the assessee may be given one opportunity to contest the case before the ld. CIT(A) in order to settle the dispute.

2.3 On the other hand, the ld. DR relied upon the order of the ld.CIT(A).

2.4 After hearing both the parties and perusing the materials available on record, it is not emerging from the order of the ld. CIT(A) as to whether the notice was given to the assessee by the ld. CIT(A). Hence, it appears that that no notice was given by the ld. CIT(A) while disposing off the appeal of the assessee. In such a situation, the Bench feels that one more chance may be given to the assessee to contest the case before the ld. CIT(A). Thus, the matter 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.

2.6 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

with no orders as to costs.

Order pronounced in the open court on 12/08/2024.

Sd/-

(संदीप गोसाई)

(Sandeep Gosain)

न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 12 /08/2024

***Mishra**

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

1. The Appellant- Smt. Santosh Devi Agarwal, Jaipur
2. प्रत्यर्थी / The Respondent- The ITO, Ward 4(2), Alwar
3. आयकर आयुक्त / The ld CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्ड फाईल / Guard File (ITA No.592/JP/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar