

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. 585/JP/2024  
निर्धारण वर्ष / Assessment Year : 2007-08

Smt. Sushila Sand L/h of late Shri Jagwant Mal Sand 2446, Gopal Kunj, Ghee Walon Ka Rasta Johri Bazar, Jaipur 302 003	बनाम Vs.	The ITO Ward 1 (1) Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: ADDPS 7435 B		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

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

सुनवाई की तारीख / Date of Hearing : 19/06/2024  
उदघोषणा की तारीख / Date of Pronouncement: 08/08/2024

आदेश / ORDER

PER: SANDEEP GOSAIN, JM

This appeal filed by the assessee is directed against order of the ld. Addl. CIT(A)-1, Chandigarh dated 28-02-2024 for the assessment year 2007-08 raising ground of appeal as mentioned at Form No. 36.

2.1 At the outset of hearing of the appeal, the Bench noticed that the assessee was ex-parte before the ld. CIT(A) as the assessee did not comply with the notices sent by the ld. addl. CIT(A) and thus the ld addl. CIT(A) confirmed the action of

the AO on the basis of the documents available before him. The observations as made by the ld. addl. CIT(A) in his order is reproduced as under:-

“7.3. Held: During the course of appellate proceedings, no reply has been filed by the appellant. I have perused the order of the Assessing Officer and considered the facts of the case. The Assessing Officer has passed a speaking order with detailed discussion on the issue involved therein after considering the appellant’s submission during assessment proceedings including request for cross examination. The appellant has not pursued the appeal. No details, documents or submissions have been provided by the appellant substantiating its grounds of appeal. Moreover, mere facts mentioned in Form 35 cannot be considered in the absence of any supporting documentary evidence and submissions.

The AO has passed a reasoned and speaking order considering all the facts and the circumstances of the case. Also, the appellant has failed to bring anything on record to support its grounds of appeal and to counter the additions made by the AO. Therefore, there is no reason to interfere with the order passed by the AO. Accordingly, the Grounds of appeal Nos. 1 & 2 are dismissed.

8. In the result, the appeal is dismissed.

2.2 During the course of hearing, the ld. AR of the assessee has filed a detailed written submission as to the deletion of addition made by the AO and confirmed by the ld. addl. CIT(A). The ld. AR of the assessee submitted that neither he could not reply to the notices of the ld. addl. CIT(A) and nor could counter the order of the AO for the reason that the adjournment application could not be filed on the

income tax portal since the Id of the deceased assessee was closed due to his death and notice was not showing in the income tax Id of the Legal Heir Smt. Sushila Sand. So there was no option other than giving the reply on the email and the Id. Addl. CIT(A) did not consider the same and passed the order without even mentioning that the assessee has submitted the reply for the notice dated 26-02-2024. Thus he prayed that one more chance may be given to the legal heir of the assessee to submit the documents/ reply to counter the assessment order.

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

2.4 The Bench has heard both the parties and perused the materials available on record. Be that as it may since it is an admitted fact that the assessee is ex-parte 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 Id. Addl 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 Id. Addl 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 Id. Addl 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 08/08/2024.

Sd/-  
(संदीप गोसाईं)  
(Sandeep Gosain)  
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 08/08/2024

**\*Mishra**

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

1. The Appellant- Smt. Sushila Sand L/h late Shri Jagwant Mal Sand, Jaipur
2. प्रत्यर्थी / The Respondent- The ITO, Ward 1(1), Jaipur
3. आयकर आयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्ड फाईल / Guard File (ITA No. 585/JP/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar