

आयकर अपीलिय 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. 609/JP/2023  
निर्धारण वर्ष / Assessment Year : 2013-14

Sanjay Kumar Jindal, HUF Thru: Sanjay Kumar Jindal, Karta 104, Ganpati Sadan, Sadar Bazar, Ajmer	बनाम Vs.	The ITO Ward 2 Ajmer
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAMHS 4442J		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारित की ओर से / Assessee by : Shri Harshit Agarwal, CA  
राजस्व की ओर से / Revenue by: Mrs. Monisha Choudhary, Addl. CIT-DR

सुनवाई की तारीख / Date of Hearing : 25/07/2024  
उद्घोषणा 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 04-08-2023, National Faceless Appeal Centre, Delhi [ hereinafter referred to as (NFAC) ] for the assessment year 2013-14 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. CIT(A) and thus the ld CIT(A) confirmed the action of the AO on

the basis of the documents available before him. The narration as made by the ld.

CIT(A) in his order is as under:-

“5. The appellant has been provided several opportunities of hearing but there is neither any compliance from the appellant nor he filed any written submission.

6.1 .....So by respectfully following the view taken in te cases cited supra, I dismiss the appeal in limine for non-prosecution.

6.2 The appeal is not maintainable on merit too. I find that the decision of the AO, in denying claim of benefit u/s 10(38) of the Act and treating the amount of Rs.13,59,000/- as unexplained money u/s 69A of the Act on the basis of facts brought on record by him through investigation is squarely covered in favour of the Revenue by the decision of Hon’ble Calcutta High Court in the case of Nand Kishore Agarwalla [2022] 143 taxmann.com 402 wherein the decision in the case of Swati Bajaj [2022] 130 taxmann.com 352 has been followed. I also find support from the ratio of the decision of Hon’ble Delhi High Court in the case of Vikas Jain [2023] 146 taxmann.com 210. Accordingly, addition of Rs.13,59,000/- u/s 69A of the Act is hereby confirmed. All the grounds are thus dismissed.

7. In the result, the appeal is dismissed.”

2.2 During the course of hearing, the ld. AR of the assessee submitted that the assessee was ex-pate before lower authorities because of non-receipt of notices and thus the assessee remained deprived off to counter the reply. Hence, the assessee may be provided one more chance to contest the case before the AO.

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) and the AO and thus , he could not put forth is 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 his 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, 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 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.

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 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- Shri Sanjay Kumar Jindal, HUF , Ajmer
2. प्रत्यर्थी / The Respondent- The ITO, Wasrd 2(2), Ajmer
3. आयकर आयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्ड फाईल / Guard File (ITA No. 609/JP/2023)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar