

**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH 'B', LUCKNOW**

**BEFORE SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER
AND SHRI SUBHASH MALGURIA, JUDICIAL MEMBER**

I.T.A. No.363/Lkw/2024
Assessment year:2015-16

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| Shri Mahesh Chandra Mishra, 74, Bakarazi, Shahjahanpur. PAN:AAQPM7067D (Appellant) | Vs. | Income Tax Officer-1(4), Shahjahanpur. (Respondent) |
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| Appellant by | Shri Ashwani Kumar, C.A. |
| Respondent by | Shri Sunil Kumar Rajwanshi Addl. CIT (D.R.) |

ORDER

PER ANADEE NATH MISSHRA, A.M.

(A) Appeal vide I.T.A. No.363/Lkw/2024 has been filed by the assessee for assessment year 2015-16 against impugned appellate order dated 15/04/2024 (DIN & Order No.ITBA/NFAC/S/250/2024-25/10640822129(1) of Commissioner of Income Tax (Appeals) ["CIT(A)" for short]. The grounds of appeal are as under:

- "1. That the Learned Lower Court erred in passing the order u/s 250 dated 15th April 24 without giving any opportunity to be heard.
2. That the only notice received was Dated 2nd Feb 2021 fixing the appeal on 15th Feb 21 against which the appellant moved and adjournment request online on 13th Feb 21 and present order under appeal in of April 24.
3. That the appeal filed u/s 250 should have been accepted.
4. Learned Lower Court erred in confirming the addition made in the order passed u/s 143(3) ignoring the various replies and evidences filed before the Learned Assessing Officer.

5. *That the additions made are bad in law on the facts and legal aspects.*
6. *That the addition made are too excessive, arbitrary & without any basis.*
7. *That the order passed is against the merit, circumstances and legal aspects of the case."*

(B) In this case assessment order dated 29/12/2017 was passed u/s 143(3) of the Income Tax Act, 1961 ("IT Act" for short) whereby the assessee's total income was determined at Rs.1,32,85,440/- as against returned income of Rs.4,03,760/-. The assessee filed appeal in the office of the learned CIT(A). Vide impugned order dated 15/04/2024, the learned CIT(A) dismissed the assessee's appeal. The present appeal before us has been filed by the assessee against the aforesaid impugned appellate order dated 15/04/2024.

(C) At the time of hearing before us, the learned Counsel for the assessee submitted that the assessee had sought for adjournment of hearing initially fixed for 15/02/2021. Thereafter no notice was issued to the assessee and no further opportunity was provided to the assessee. Learned Counsel for the assessee submitted that the assessee deserves another opportunity before the learned CIT(A). He further drew our attention in this regard to the fact that more than three years had elapsed after initial date of hearing fixed on 15/02/2021. He submitted that the issues in dispute regarding the additions made should be restored back to the file of the learned CIT(A) for passing fresh order in accordance with law after providing reasonable opportunity to the assessee.

(D) Learned Sr. Departmental Representative for the Revenue expressed no objection to this.

(E) We have heard both sides. We have perused materials on record. We find that the office of the learned CIT(A) issued notice initially fixing compliance date on 15/02/2021. The assessee requested for adjournment of hearing vide response dated 13/02/2021. Thereafter for more than three years, the matter was pending in the office of the learned CIT(A). The learned CIT(A) passed the aforesaid order

dated 15/04/2024 without affording any further opportunity to the assessee and without issuing any further notice. Therefore, we are of the view that the learned CIT(A) did not provide reasonable opportunity to the assessee to present his case. Therefore, in the specific facts and circumstances of the present case before us and as both sides are in agreement, we set aside the impugned appellate order dated 15/04/2024 of learned CIT(A) and we restore the dispute regarding the additions made, back to the file of the learned CIT(A) with the direction to pass de novo assessment order in accordance with law after providing reasonable opportunity to the assessee. All the grounds of appeal are treated disposed of in accordance with aforesaid directions.

(F) In the result, the appeal is partly allowed for statistical purposes.

(Order pronounced in the open court on 04/09/2024)

Sd/.
(SUBHASH MALGURIA)
Judicial Member

Sd/.
(ANADEE NATH MISSHRA)
Accountant Member

Dated:04/09/2024
*Singh

Copy of the order forwarded to :

1. The Appellant
2. The Respondent.
3. Concerned CIT
4. The CIT(A)
5. D.R., I.T.A.T., Lucknow

Asstt. Registrar