

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No. 219/Ind/2024
Assessment Year : 2012-13

Saroj Sugandhi, LIG 132, A Sector, Sonagiri, Bhopal	<u>बनाम/</u> Vs.	Income-tax Officer, Bhopal
(Assessee/Appellant)		(Revenue/Respondent)
PAN: CQGPS1274N		
Assessee by	Shri Hitesh Chimnani, Ms.Komal Wadhwani and Ms. Komal Kataria, ARs	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	09.09.2024	
Date of Pronouncement	10.09.2024	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by appeal-order dated 08.02.2024 passed by learned Commissioner of Income-Tax (Appeals)-Addl/JCIT-(A)-1, Delhi, ["CIT(A)"] which in turn arises out of assessment-order dated 30.12.2019 passed by learned ITO-5(2), Bhopal ["AO"] u/s 143(3) r.w.s. 147 of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2012-13, the assessee has filed this appeal on the grounds mentioned in Appeal Memo (Form No. 36).

2. On hearing learned Representatives of both sides, it emerges that the CIT(A) has decided first-appeal *ex-parte* qua assessee for the reason that the assessee did not make any submission before him despite opportunities given. Referring to Para 4 of impugned order, Ld. AR for assessee pointed out that the CIT(A) fixed 1st hearing on 20.01.2021 during Covid period. Thereafter, the CIT(A) fixed 2nd and 3rd hearing on 15.01.2024 and 05.02.2024 respectively which were within a span of just 20 days after a gap of about 3 years from 1st hearing, therefore the assessee could not attend hearings. It is further observed that the CIT(A) has simply confirmed the order passed by AO and thereby upheld the additions but the grounds/ issues raised by assessee in first-appeal requires an apt adjudication by CIT(A) on merit in accordance with provisions of 250(6) of the Act which provides *"The order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision."*. Ld. AR for assessee acknowledges that the assessee is ready and willing to make representation before CIT(A) if an opportunity is given and hence prays that the present matter should be remanded to CIT(A) for an apt adjudication. Ld. DR for revenue agrees with the prayer of Ld. AR but makes a request to direct the assessee to represent his case before CIT(A) and do not seek unnecessary adjournments.

3. Considering above submissions and also having regard to the principle of natural justice and fair play, we deem it fit to remand this matter back to the file of CIT(A) for a proper adjudication on merit. The

CIT(A) shall give necessary opportunity of hearing to assessee and pass an appropriate order uninfluenced by his earlier order. The assessee is also directed to ensure participation in the hearings as may be fixed by CIT(A) and do not seek unnecessary adjournments failing which the CIT(A) shall be at liberty to pass appropriate order in accordance with law. Ordered accordingly.

4. Resultantly, this appeal is allowed for statistical purpose.

Order pronounced in open court on 10.09.2024

Sd/-
(VIJAY PAL RAO)
JUDICIAL MEMBER

sd/-
(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 10.09.2024
CPU/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order
Assistant Registrar
Income Tax Appellate Tribunal
Indore Bench, Indore