

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, " B-Bench" JAIPUR

श्री राठौड़ कमलेश जयन्तभाई, लेखा सदस्य एव श्री नरेन्द्र कुमार, न्यायिक सदस्य के समक्ष
BEFORE: SHRI RATHOD KAMLESH JAYANTBHAI, AM & SHRI NARINDER KUMAR, JM

आयकर अपील सं./ITA No. 956/JPR/2024
निर्धारणवर्ष / Assessment Year : 2018-19

Sh. Brij Nandan Beniwal S/o Tej Singh Beniwal, Bayana Road, Sadhana Colony, Hindaun City.	बनाम Vs.	The ITO, Ward, Karauli.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AUDPB9613R		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assessee by : Shri Sharwan Kumar Gupta, Adv.
राजस्व की ओरसे / Revenue by: Shri Anup Singh (CIT)

सुनवाई की तारीख / Date of Hearing : 09/09/2024
उदघोषणा की तारीख / Date of Pronouncement : 09/09/2024

आदेश / ORDER

PER: NARINDER KUMAR, J.M.

Appellant-assessee has challenged order dated 26.06.2024 passed by Learned CIT(A), NFAC, Delhi. The matter relates to assessment year 2018-19.

Assessee was before Learned CIT(A), feeling aggrieved by the order dated 20.03.2023 passed by the Assessing Officer u/s 147 r.w.s. 144 of the Income Tax Act, 1961, (hereinafter referred to as "the Act").

A case of addition- Failure to explain source of cash credit

2. Vide abovesaid order dated 20.03.2023, the Assessing Officer framed assessment while calculating total income of the assessee at Rs. 1,35,40,000/- by making addition of the said amount u/s 69A r.w.s. 115BBE of the Act.

Said addition was made on the basis of information that the assessee had made cash withdrawals to the tune of Rs. 1,35,40,000/- from his account with Corporation Bank, Hindaun Branch, Rajasthan , and when the assessee was called upon to explain the source of cash credit, despite multiple opportunities, he did not respond. It led to completion of the assessment proceedings and framing of assessment order u/s 144 of the Act.

Challenge made to the assessment order by the assessee before Learned CIT(A) did not give any respite to the assessee. Hence, this appeal.

3. Arguments heard. File perused.

4. Learned AR for the appellant has submitted that Learned CIT(A) dismissed the appeal filed by the assessee while observing that despite issuance of notice, the assessee did not participate in the appeal-proceedings, but he admits that non participation in the proceedings

before Learned CIT(A) was due to his own inadvertant mistake (of learned AR for the appellant).

Ld. AR has submitted that first notice issued u/s 250 of the Act was issued by the office of Learned CIT(A) for compliance by 08.04.2024 but, as per instructions, adjournment was sought on behalf of the assessee; that thereafter 3 more notices dated 27.05.2024, 04.06.2024 and 14.06.2024 were issued by the office of Learned CIT(A) for compliance by 03.06.2024, 10.06.2024 and 21.06.2024, respectively, but, said notices also could not be complied with for the aforesaid reason.

Ld. AR for the appellant-assessee explains that he was informed by the previous counsel about the notices, but, inadvertently he could not participate in the proceedings.

Accordingly, Id. AR for the appellant-assessee has urged that in the interest of justice, the matter may be restored to the files of Learned CIT(A) so as to provide reasonable opportunity to the assessee-appellant to put forth his case in his appeal.

5. As is available from para 4.1 of the impugned order, after first adjournment sought on behalf of the assessee-appellant, before Learned CIT(A), three notices were issued by the said office to the assessee.

In Form No. 35, e-mail address has been mentioned as advocate.atul1996@gmail.com and in column No. 17 address of the appellant for communication of notices finds mentioned as “S/o Tej Singh Beniwal, Sadhana Colony, Hindaun, Hindaun H.O. Karauli, Rajasthan, India-322230” .

This goes to show that address of Learned AR representing the assessee in this appeal does not find mention in Form No. 35.

When Ld. AR for the appellant has candidly put forth inadvertence in non participation in the proceedings before Learned CIT(A), assessee-appellant cannot be made to suffer because of said advertent mistake on the part of Ld. AR.

6. In the given situation, we deem it a fit case to remit the matter to Learned CIT(A) for decision afresh.

Result

7. As a result of the above discussion, this appeal is hereby disposed off for statistical purposes, and the appeal filed by the assessee before Learned CIT(A) is restored to its original number, for its decision afresh, of course, after providing reasonable opportunity to the assessee-appellant of being heard.

Order pronounced in the open court on 09/09/2024.

Sd/-

(राठौड़ कमलेश जयन्तभाई)
(RATHOD KAMLESH JAYANTBHAI)
लेखा सदस्य / Accountant Member
जयपुर / Jaipur
दिनांक / Dated:- 09/09/2024

*Santosh

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- Sh. Brij Nandan Beniwal, Hindauncity.
2. प्रत्यर्धी / The Respondent- ITO, Ward, Karauli.
3. आयकर आयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्ड फाईल / Guard File ITA No. 956/JPR/2024)

Sd/-

(नरेन्द्र कुमार)
(NARINDER KUMAR)
न्यायिक सदस्य / Judicial Member

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar