

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.350/Ind/2024
(Assessment Year: 2010-2011)

Mansi Ajay Garg, 162 A sector, Indrapuri, Bhopal	Vs.	Income Tax Officer, Bhopal
(Appellant / Assessee)		(Respondent/ Revenue)
PAN: AGVPG3703D		
Assessee by	S/Shri Hitesh Chimnani & Yash Kukreja, ARs	
Revenue by	Shri Ashish Porwal, SR.DR	
Date of Hearing	19.09.2024	
Date of Pronouncement	23.09.2024	

O R D E R

Per Vijay Pal Rao, JM:

This appeal by the assessee is directed against the order dated 22.02.2024 of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centers,(NFAC) Delhi for the Assessment Year 2010-2011.

2. Assessee has raised following grounds of appeal:

1. Assessee has taken entire amount through account payee cheques from her relatives. Copies of bank statement of the assessee as well as of lenders were also produced. But AO had not convinced and disallowed the amount. It is not justified.

2. During the year under consideration assessee had purchased one plot in Rs. 26.00 lacs. The entire payment was made through cheque. It was told to AO and documentary evidences such as bank statement was produced before AO. But AO has allowed only Rs. 18.00 lacs

3. It was told to AO that stamp duty and charges were bear by seller.

3. At the time of hearing Ld. AR of the assessee has submitted that CIT(A) has passed impugned order ex-parte when there was no response on behalf of the assessee to the notices issued by CIT(A). He has pointed out that the first notice was issued during the covid period and thereafter the second notice was issued after a gap of more than 3 years. However, due to the oversight of the authorized representative he could not file any reply/submissions before CIT(A). He has further submitted that initially the appeal was filed physically and thereafter it was migrated to National Faceless Appeal Centre and the assessee in the Form 35 has specifically denied the notices/communication by e-mail. Therefore, in the absence of any physical notices the assessee was not aware of the impugned notices issued by CIT(A). Thus the Ld. AR has pleaded

that the impugned ex-parte order may be set aside and the matter may be remanded to the record of CIT(A) for fresh adjudication after giving one more opportunity of hearing to the assessee.

4. On the other hand Ld. Departmental Representative has raised no objection if the matter is remanded to the record of CIT(A) for fresh adjudication.

5. We have considered rival submissions and carefully perused the impugned order of CIT(A). In Para No.4 the CIT(A) has mentioned that the notices for hearing were issued on 08.01.2021 and 07.02.2024 however, the assessee has not submitted any reply till the order was passed. Thus, it is clear that the first notice was issued on 08.01.2021 during the covid pandemic period and then after a gap of 3 years the second notice was issued on 07.02.2024. The assessee has explained the reasons that the originally the appeal was filed physically and then it was migrated to the National Faceless Appeal Centre therefore, the notices issued through e-mail were not in the knowledge of the assessee as in the Form-35 the assessee specifically stated "no" for notices/communication through e-mail. Thus, it is clear that the CIT(A) has dismissed the appeal of the assessee summarily for want of any reply and

supporting evidences/details. Accordingly in the facts and circumstances of the case the impugned order of CIT(A) is set aside and the matter is remanded to the record of CIT(A) for fresh adjudication on merits after giving an appropriate opportunity of hearing to the assessee.

6. In the result appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 23.09.2024.

Sd/-

(B.M. BIYANI)
Accountant Member

Sd/-

(VIJAY PAL RAO)
Judicial Member

Indore, 23.09.2024
Dev/Sr. PS

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

By order

Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore