

**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. 331/Ind/2024**  
**Assessment Year:2007-08**

Bhuwneshwar Singh Maran, H.No.05, Neelbad Bhadbhada Road, Bhopal (Assessee/Appellant)	<b>बनाम/ Vs.</b>	Income-tax Officer, 1(1), Bhopal (Revenue/Respondent)
<b>PAN: AHEPM8432B</b>		
Assessee by	Shri Shreya Jain, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	19.09.2024	
Date of Pronouncement	27.09.2024	

**आदेश / O R D E R**

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

Feeling aggrieved by appeal-order dated 15.02.2024 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of penalty-order dated 27.08.2015 passed by learned ITO-1(1), Bhopal ["AO"] u/s 271(1)(b) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2007-08, the assessee has filed this appeal.

2. We have heard the learned Representatives of both sides and perused the case record including the orders of lower-authorities.

3. The AO has imposed a penalty of Rs. 40,000/- for non-compliances of four notices issued by him u/s 142(1) during assessment-proceeding on 25.06.2014, 27.08.2014, 16.01.2015 and 03.02.2015 @ Rs. 10,000/- for failure to comply with each notice. Even the AO has passed penalty-order ex-parte assessee due to non-representation by assessee in response to the notice issued by AO affording opportunity before imposing penalty.

4. During first-appeal before CIT(A), the assessee claimed that the impugned four notices u/s 142(1) were never served upon him. Taking into account assessee's claim, the CIT(A) sought remand report from AO in response to which the AO filed remand-report. Then, the CIT(A) forwarded remand-report to assessee for filing his rejoinder but the assessee sought adjournment. The CIT(A) thereafter dismissed assessee's first-appeal by passing following order:

*"5. The Remand Report furnished by the AO was forwarded to the appellant to furnish his Rejoinder vide letter dated 27.12.2023. However, the appellant has only sought adjournment of 15 days. The AO issued several notices and responded to the remand report that none of the notices were returned back. When this report was given to the appellant, he has not furnished his Rejoinder. Hence, it is assumed that the appellant is not keen to pursue his appeal.*

*6. As a result, the appeal is dismissed."*

5. Thus, the CIT(A) has dismissed assessee's first-appeal for want of submission by assessee to the remand-report of AO.

6. It is also noteworthy that the AO originally passed assessment-order dated 26.02.2015 u/s 144/147 for the reason of non-compliances by assessee to the notice u/s 148 and above mentioned four notices u/s 142(1) and the assessee filed first-appeal belatedly to CIT(A) against such assessment-order. The assessee claimed before CIT(A) that neither notices u/s 148/142(1) nor the assessment-order was served upon him which has resulted in delayed filing of appeal before him but the CIT(A) did not accept assessee's claim and dismissed appeal for the reason of delayed filing. Therefore, the assessee filed next appeal to ITAT against the order of CIT(A) which was registered by ITAT as *ITA No. 186/Ind/2024* and has already been disposed of vide order dated 26.07.2024 wherein the ITAT has restored matter to CIT(A) to re-visit claim of assessee and adjudicate afresh.

7. Therefore, taking into account the fact that the CIT(A) has passed impugned order dated 15.02.2024 being assailed in present appeal ex-parte assessee for non-submission of rejoinder to the remand-report filed by AO and also that the ITAT has already restored assessee's first-appeal against original assessment-order to CIT(A) vide aforesaid order dated 26.07.2024, the present matter is also restored back to CIT(A) for giving one more opportunity to assessee to file rejoinder and thereafter pass an appropriate order in accordance with law. The assessee is also directed to file his rejoinder as required by CIT(A) and other submission, if any, which shall be

***Shri Bhuvaneshwar Singh Maran, Bhopal vs. ITO, 1(1), Bhopal  
ITA No. 331/Ind/2024 - AY 2007-08***

considered judiciously by CIT(A) without being influenced by his earlier orders in any manner.

**8. Resultantly, this appeal is allowed for statistical purpose.**

Order pronounced in open court on 27.09.2024

Sd/-  
(VIJAY PAL RAO)  
JUDICIAL MEMBER

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

**Indore**

दिनांक /Dated : 27.09.2024  
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