

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. 123/Ind/2024
Assessment Year: 2015-16

Rahul Tanted, 4, Girdhar Nagar, Mahesh Nagar, Indore	<u>बनाम/</u> Vs.	JCIT, Range-1, Indore
(Assessee/Appellant)		(Revenue/Respondent)
PAN:		
Assessee by	CA Ms. Shailini Mehta, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	16.10.2024	
Date of Pronouncement	16.10.2024	

आदेश / O R D E R

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

Feeling aggrieved by appeal-order dated 12.12.2023 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of penalty-order dated 22.09.2022 passed by learned JCIT, Range-1, Indore ["AO"] u/s 271D of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2015-16, the assessee has filed this appeal on the grounds mentioned in Appeal Memo (Form No. 36).

2. There is a small delay of 2 days in filing this appeal. Ld. AR for assessee submits that the delay has occurred because it took time to engage counsel for filing of appeal. Ld. AR further submits that the delay is not attributable to any negligence, malafide intention or ulterior motive and the assessee does not derive any benefit by making delay. He prays to condone delay. Ld. DR for revenue did not object to the submission of Ld. AR. Considering the explanation submitted by assessee, we are inclined to condone small delay of 2 days and the appeal is proceeded for hearing.

3. Ld. AR then submits that the assessee has been provided two opportunities by CIT(A) through notices dated 09.06.2023 and 04.12.2023 but those notices could not reach to the attention of assessee and hence the assessee could not make representation before CIT(A). Therefore, the CIT(A) has passed impugned order ex-parte to assessee while upholding the penalty imposed by AO. Ld. AR submits that the assessee is ready and willing to make representation before CIT(A) if an opportunity is given and prays that the present matter should be remanded to the file of CIT(A) for a proper adjudication of the grounds/issues raised by assessee in first-appeal. 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.

4. 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 adjudication afresh after giving necessary

opportunities of hearing to assessee. The CIT(A) shall 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.

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

Order pronounced in open court immediate after conclusion of hearing and subsequently reduced in writing on the very same day.

(VIJAY PAL RAO)
JUDICIAL MEMBER

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 16.10.2024

Dev/Sr. PS

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

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