

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "SMC" JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य के समक्ष  
BEFORE: HON'BLE SHRI SANDEEP GOSAIN, JM

आयकर अपील सं./ITA No. 1079/JP/2024  
निर्धारण वर्ष/Assessment Year : 2016-17.

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|---|-------------|---|
| Rajesh Kumar Goyal<br>A-78, Manish Marg, Nemi Nagar,<br>Gandhi Path, Vaishali Nagar,<br>Jaipur. | बनाम<br>Vs. | Income Tax Officer,<br>Ward 3(5)<br>Jaipur. |
| स्थायी लेखा सं./जीआईआर सं./ PAN/GIR No. ABUPG 8803 E  |             |   |
| अपीलार्थी / Appellant   |             | प्रत्यर्थी / Respondent                     |

निर्धारिती की ओर से / Assessee by : None

राजस्व की ओर से / Revenue by : Shri Gautam Singh Chaudhary, JCIT D/R

सुनवाई की तारीख / Date of Hearing : 25/09/2024

उदघोषणा की तारीख / Date of Pronouncement : 04/10/2024

आदेश / ORDER

PER: SANDEEP GOSAIN, J.M.

This appeal by the assessee is directed against the order dated 24.05.2024 of Id. CIT (Appeals), National Faceless Appeal Centre (NFAC), Delhi passed under section 250 of the Income Tax Act, 1961 for the assessment year 2016-17. The grounds raised in the appeal are reproduced as under :-

1. On the facts and circumstances of the case, the LD. CIT (Appeals) grossly erred in law and facts by passing the order without affording reasonable

- opportunity of being heard to the assessee. As same is against principles of natural justice, it is hereby prayed to quash the order so passed.
2. On the facts and circumstances of the case, the LD. CIT (Appeals) grossly erred in law and facts by approving the additions made by the Id. AO who has made such additions only on account of some alleged erroneous presentation in return of income. It is hereby thus prayed to delete the additions so made.
  3. On the facts and circumstances of the case, the notice under section 143(2) issued by Id. AO was unsigned and hence invalid. It is thus hereby prayed to quash the said notice and assessment order passed in pursuance of such invalid notice.
  4. On the facts and circumstances of the case, the Id. AO made the addition on the issues which were completely different from the issues on the basis of which limited scrutiny notice was given and as mentioned in notice u/s 143(2). Thus, such an addition without prior approval of specified authority is invalid and hence it is hereby prayed to delete the demand raised against the assessee and quash the assessment order so passed.
  5. On the facts and circumstances of the case, the LD. CIT (Appeals) grossly erred in law and facts by dismissing the appeal of the assessee without going into merits of the case when all the necessary evidences were available on record. It is hereby thus prayed to quash the order so passed by the Id. Appellate Authority and remand the matter for his kind reconsideration.
  6. The appellant hereby craves the leave to add, alter, substitute or delete any one or all of the grounds of appeal at the time of or before the actual hearing of the case.

2. The brief facts of the case are that the assessee is an Individual and derived his income from Business and Profession, House Property and Income from Other sources. The assessee dealt in securities in addition to being partner in a firm. The assessee filed his return of income declaring total income of Rs. 5,54,290/- for the year under consideration on 15.10.2016 which has been processed under section 143(1) of the IT

Act, 1961 by the CPC. The case of the assessee was selected for limited scrutiny through CASS. Accordingly, notice under section 143(2) of the IT Act, 1961 was issued on 29.06.2017 and duly served on the assessee. In response to the notice under section 143(2) and 142(1) of the IT Act, 1961, the assessee filed reply. The AO examined the issues and verified with the relevant replies and the same have been obtained and placed on record. The AO considered the submissions of the assessee but found not acceptable. Accordingly, the AO completed the assessment at a total income of Rs. 8,05,890/- by making an addition of Rs. 2,51,599/-. Aggrieved by the order of AO, the assessee preferred appeal before the Id. CIT (A). The Id. CIT (A) dismissed the appeal of the assessee. Now the assessee is in appeal before the Tribunal.

3. At the very outset, when the case was called for hearing, no one appeared on behalf of the assessee. On going through the case file, I noticed that on the previous date of hearing it was clearly mentioned that this date of hearing is provided as Last Opportunity for the arguments. But even inspite of that when the case was called for hearing neither the assessee nor his representative has appeared and even no application for seeking adjournment has been filed. Therefore, considering these facts, the case is being decided ex parte.

4. On the other hand, the Id. D/R present in the court is ready with the arguments. Therefore, I have decided to proceed with the hearing of the case.

5. After having heard the Id. D/R on the facts of the present case, I found that there is a delay of 25 days in filing the present appeal and after going through the application for seeking condonation of delay and while keeping in view the principles of natural justice and also the directives contained in the judgment of Hon'ble Supreme Court in the case of Collector, Land Acquisitions vs. Mst. Katiji AIR 1987 SC 1353, I condone the delay and appeal is admitted for hearing on merits.

6. From the order of Id. CIT (A), I found that assessee was ex parte and has not appeared before him. Therefore, looking into the conduct of the assessee, I am not inclined to interfere into the orders passed by the Id. CIT (A) as no new material or written submissions have been submitted before me so as to introvert or rebut the finding so recorded by the Id. CIT (A). Therefore, I dismiss the present appeal on merits as well.

7. In the result, appeal stands dismissed with no order as to costs.

Order pronounced in the open court on 04/10/2024.

Sd/-  
(संदीप गोसाईं)  
(SANDEEP GOSAIN)  
न्यायिक सदस्य/Judicial Member

जयपुर/Jaipur

दिनांक/Dated:- 04/10/2024.

Das/

आदेश की प्रतिलिपि अग्रेशित/Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Rajesh Kumar Goyal, Jaipur.
2. प्रत्यर्थी / The Respondent- ACIT Ward 3(5), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File {ITA No. 1079/JP/2024}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar