

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

डा० एस. सीतालक्ष्मी, न्यायिक सदस्य एवं श्री राठोड कमलेश जयन्तभाई, लेखा सदस्य के समक्ष
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA No. 1160/JPR/2024
निर्धारण वर्ष / Assessment Year : 2022-23

Shri Rakesh Satija Tehsil: Ramgarh, Alwar (Raj)	बनाम Vs.	ITO, Alwar
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AWBPS 1578 G		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assesseeby : None
राजस्व की ओरसे / Revenue by: Shri Gautam Singh Choudhary Addl.CIT

सुनवाई की तारीख / Date of Hearing : 10/10/2024
उदघोषणा की तारीख / Date of Pronouncement: 02/12/2024

आदेश / ORDER

PER: DR. S. SEETHALAKSHMI, J.M.

This appeal filed by the assessee is directed against order of the ld. CIT(A) dated 10-07-2024, National Faceless Appeal Centre, Delhi [hereinafter referred to as (NFAC)] for the assessment year 2022-23 raising therein following ground of appeal.

“The AO added the income of the assessee by Rs.6,79,919/- which was totally illegal and against the valid giving proof.”

2.1 At the outset of hearing of the appeal, the Bench noticed that there is delay of one day in filing the appeal by the assessee for which the neither the assessee or his representative appeared nor any application for condonation of delay has been filed by the assessee. In this situation, the Bench adopts the lenient view for such one day delay in filing the appeal by the assessee and admits the same as the Department has not raised any objection.

3.1 During the course of hearing, the Bench noted that none appeared on behalf of the assessee when the case was called out for hearing. Hence, in this situation, the Bench decided to dispose of the appeal on merit and based on the documents available on record.

3.2 Apropos solitary ground of the assessee, the Bench noticed that the Id.CIT(A) has dismissed the appeal of the assessee by observing as under:-

“4.3 I have gone through the grounds of appeal, submission and assessment order. The AO observed that there is a difference of Rs.6,79,919/- for the total credits in the bank account and the sale proceeds shown by the appellant. It is submitted that Rs.5,00,000/- is not a part of his income because the same is reversed. In support of his claim the appellant had filed a copy of the account statement. The appellant ought to have furnished a copy of the letter from the Bank. But he has not furnished any documentary evidence in this regard. In the appellate proceedings, the burden of proof always lies on the appellant. The appellant has to prove or rebut with cogent evidence against the facts and findings of the AO in the assessment order. Further, in the interest of natural justice, the Assessing Officer has given several opportunities of hearing have been provided to the appellant to submit

explanation/evidence in support of its claim. Under the circumstances, I have no reason to interfere with the order of the Assessing Officer and in my opinion the AO has rightly made the addition. Therefore, I hereby confirm the addition of Rs.6,79,919/-. Ground raised in this appeal is dismissed.

5. In the result, the appeal is DISMISED.”

3.3 On the other hand, the Learned DR supported the order of the Id. CIT(A) and the AO.

3.4 We have heard the Learned DR perused the materials available on record. Brief facts of the case are that the assessee filed his return of income for the assessment year 2022-23 on 30-07-2022 declaring his total income of Rs.4,56,050/-. The AO noted that the assessee during the period had reported his income from salary of Rs,2,50,000/-, income from business of Rs.2,23,302/- and income from other sources of Rs.19,008/- and thus totaling his income of Rs.4,92,310/-. The AO further noted that out of this amount, the assessee claimed deduction under Chapter VI-A of Rs.36,258/- and thus reported his total income of Rs.4,56,050/-. The case of the assessee was selected for complete scrutiny under CASS for which the reason has been narrated by the AO in his assessment order. The AO mentioned in his assessment order that during the course of assessment proceedings the assessee was given several opportunities of being heard to

the assessee which was not responded fully. Hence, in view of the non-compliance of the assessee, it is presumed by the AO that the assessee has nothing to offer against the query raised in the show cause notice and the AO had no option but to complete the assessment proceedings on the basis of the data available in the departmental portal. Conclusively, the AO made an addition of Rs.6,79,919/- in the hands of the assessee by observing as under:-

“As per the bank account assessee has received total amount of Rs.2,54,71,875/- vide his account No. 0840002100007958 maintained with PNB. Whereas assessee in his submission has stated had he has received sale proceeds of the stamp papers and stamp tickets amounting to Rs.2,47,91,956/-. There is a difference of Rs.6,79,919/- between the assessee reported gross sale value of the stamp paper and stamp tickets as stated in the submission and amount deposited in the bank account maintained with PNB Bank. The differential amount of Rs.6,79,919/- is treated under reported income of the assessee in consequence to miss-reporting and added back to the total income of the assessee.

Add: As per the issue discussed in the para above Rs.6,79,919/-“

From the entire conspectus of the case, it is noticed that the Id.CIT(A) dismissed the appeal of the assessee by confirming the addition made by the AO amounting to Rs. 6,79,919/- as the assessee neither furnished the copy of bank letter nor submitted any documentary evidence in this regard. This indicates that the assessee was lethargic in pursuing his appeal and

not supplying the documents to counter the order of the AO. However, the Bench has taken into consideration that the assessee was not present at the time of hearing of the appeal but the Bench feels that one more chance should be given to assessee to contest the case before the AO. The Bench noticed that it is an admitted fact that the assessee is ex-parte before the AO and also before the Id. CIT(A). Therefore, he could not put forth his proper defence. It was the bounded duty of the assessee to appear before the statutory authorities as and when called for. It is noticed that various opportunities were provided to the assessee for settling the issue but the assessee remained lethargic and unserious in pursuing his case. However, the Bench is of the view that lis between the parties has to be decided on merits so that nobody's rights could be scuttled down without providing opportunity of being heard to the assessee. Hence, the matter is restored to the file of the AO to decide it afresh by providing one more opportunity of hearing, however, the assessee will not seek any adjournment on frivolous ground and remain cooperative during the course of proceedings. Thus the appeal of the assessee is allowed for statistical purposes.

3.5 Before parting, we may make it clear that our decision to restore the matter back to the file of the AO shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by AO independently in accordance with law.

4.0 In the result, the appeal of the assessee is allowed for statistical purposes

Order pronounced in the open court on 02 /12/2024.

Sd/-

(राठोड कमलेशजयन्तभाई)
(RATHOD KAMLESH JAYANTBHAI)
लेखा सदस्य / Accountant Member

Sd/-

(डॉ.एस.सीतालक्ष्मी)
(Dr. S. Seethalakshmi)
न्यायिकसदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 02 /12/2024

*Mishra

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- Shri Rakesh Satija, Alwar.
2. प्रत्यर्थी / The Respondent- The ITO, Alwar
3. आयकरआयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्डफाईल / Guard File (ITA No. 1160/JPR/2024)

आदेशानुसार / By order,

सहायकपंजीकार / Asstt. Registrar