

IN THE INCOME TAX APPELLATE TRIBUNAL
JAIPUR BENCH "A", JAIPUR
**BEFORE Dr. S. SEETHALAKSHMI, JUDICIAL MEMBER AND
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER**
ITA No. 783/JPR/2024 (A.Y. 2018-19)

BSM Developers,
C/o M/s. Kalani & Co. 5th Floor,
Milestone Building, Gandhi Nagar Turn,
Tonk Road, Jaipur – 302 015.
PAN No.: AANFB 1823H

..... Appellant

Vs.

ITO, Ward-4(1),
Jaipur – 302 015.

..... Respondent

Appellant by	:	Mr. P. C. Parwal, CA, Ld. AR
Respondent by	:	Ms. Anita Rinesh, JCIT- Ld. Sr. DR
Date of hearing	:	25/11/2024
Date of pronouncement	:	28/11/2024

ORDER

PER GAGAN GOYAL, A.M:

This appeal by assessee is directed against the order of NFAC, Delhi dated 16.01.2024 passed u/s. 250 of the Income Tax Act, 1961 (in short 'the Act') for A.Y. 2018-19. The assessee has raised the following grounds of appeal:

- 1. The Ld. CIT (A), NFAC has erred on facts and in law in dismissing the appeal filed by the assessee without providing adequate opportunity of hearing.*
- 2. The Ld. CIT(A), NFAC has erred on facts and in law in confirming the addition of Rs. 66,94,367/- by not considering the reconciliation of such difference in the contract receipt declared by the assessee and that appearing in Form No. 26AS submitted to the AO vide reply dt. 17.04.2021.*

3. *The appellant craves to alter, amend and modify any ground of appeal.*

4. *Necessary cost to be awarded to the assessee."*

2. The brief facts of the case are that the assessee partnership firm filed its return of income on 25-08-2018 declaring total income at Rs. 27,49,760/-. The case of the assessee was selected under CASS for complete scrutiny with a specific reason assigned is "Verification of the contract receipts/fees. The assessment of the assessee was completed u/s. 143(3) r.w.s. 144B of the Act after making addition of Rs. 66, 94,367/- on account of difference in receipts declared by the assessee vis-a-vis shown in Form No. 26AS and Rs. 99,034/- on account of depreciation claimed by the assessee. The assessee being aggrieved with this order preferred an appeal before the Ld. CIT (A), who in turn dismissed the appeal of the assessee on account of non compliance/ non appearance. The assessee being further aggrieved with this order of the Ld. CIT (A) preferred the present appeal before us.

3. We have gone through the order of the AO, order of the Ld. CIT (A) and submissions of the assessee alongwith grounds taken before us. It is observed that vide Para 4 of the Ld. CIT (A)'s order total four opportunities were given to the assessee but either they seek an adjournment or there was no response filed by the assessee.

S. No.	Date of issue	Date of compliance fixed	Remarks
1.	20.11.2023	27.11.2023	Appellant sought an adjournment vide letter dated: 27.11.2023

2.	29.11.2023	14.12.2023	No response or submission received
3.	15.12.2023	22.12.2023	Appellant sought an adjournment vide letter dated: 27.11.2023
4.	28.12.2023	12.01.2024	No response or submission received

4. It is observed that on two occasions the assessee filed adjournment letter vide serial no. 1 & 3 mentioned (supra), but still no response ultimately was filed by the assessee. We have gone through the submissions of the assessee on this issue, wherein it is claimed that all the notices were issued on the email-id of the regular consultant of the assessee at guptapeekay@yahoo.com, whereas in form no. 35, it was categorically mentioned that M/s. Kalani & Co. is representing the matter and in column 17 of the form email id of the firm M/s. Kalani & Co. was there, i.e. anuhal@kalanico.com.

5 The adjournments were filed by the P.K. Gupta & Co., i.e. regular consultant of the assessee and were not in the knowledge of the assessee or his appeal consultant, i.e. M/s. Kalani & Co. We have gone through the documents filed before us though paper book containing complete information relevant to the matter, but as the same were not there on the records of the first appellate authority, hence not considered. In view of this we restore the matter back to the file of the Ld. CIT (A) for fresh hearing after giving sufficient opportunity to the assessee. The assessee is directed to be vigilant enough and participate actively in the proceedings before the authority without seeking any adjournment.

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

Order pronounced in the open court on 28th day of November 2024.

Sd/-

Sd/-

(Dr. S. SEETHALAKSHMI)

(GAGAN GOYAL)

JUDICIAL MEMBER

ACCOUNTANT MEMBER

Jaipur, दिनांक/Dated: 28/11/2024

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., Sr.DR., ITAT,
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Asstt. Registrar)
ITAT, Jaipur

	Details	Date	Initials	Designation
1	Draft dictated on PC on	28.11.2024		Sr.PS/PS
2	Draft Placed before author	28.11.2024		Sr.PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			JM/AM
5.	Approved Draft comes to the Sr.PS/PS			Sr.PS/PS
6.	Kept for pronouncement on			Sr.PS/PS
7.	File sent to the Bench Clerk			Sr.PS/PS
8	Date on which the file goes to the Head clerk			
9	Date of Dispatch of order			

