

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "B-Bench" JAIPUR

श्री गगन गोयल, लेखा सदस्य एवं श्री नरेन्द्र कुमार, न्यायिक सदस्य के समक्ष
BEFORE: SHRI GAGAN GOYAL, AM & SHRI NARINDER KUMAR, JM

आयकर अपील सं./ITA No. 1178/JPR/2024
निर्धारणवर्ष / Assessment Year : 2012-13

Smt. Bela Gupta 409-410, 4 th Floor, Gunesh, Jaipur Centre, 2 bypass junction, Tonk Road , Jaipur.	बनाम Vs.	The Assistant Commissioner of Income Tax, Central circle-3, Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: ABHPG9974D		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assessee by : Shri Tarun Mittal, C.A.
राजस्व की ओरसे / Revenue by: Shri Anup Singh (Addl.CIT)

सुनवाई की तारीख / Date of Hearing : 16/12/2024
उदघोषणा की तारीख / Date of Pronouncement: 17/12/2024

आदेश / ORDER

PER: NARINDER KUMAR, JUDICIAL MEMBER .

By way of present appeal, above named assessee, has challenged order dated 20.08.2024, u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") passed by Learned CIT(A), whereby the appeal filed by the assessee against the assessment order dated 30.12.2019 pertaining to the Assessment year 2012-13, passed u/s 147 r.w.s. 143(3) of the Act has been dismissed.

2. Arguments heard. File perused.
3. The only contention raised by Id. AR for the appellant is that the impugned order passed by CIT(A) is an ex-parte order, and that since the appellant could not avail of the opportunities granted, matter may be remanded to CIT(A) for decision afresh.

Learned AR has submitted that non appearance on behalf of the appellant before CIT(A) on 6 dates was not deliberate.

4. Learned DR for the department has referred to the impugned order to point out that notices were issued to the assessee while listing the appeal for hearing on 8 dates, but, the appellant did not furnish any response on 6 dates and as regards remaining two dates, simply adjournment was sought.

The contention is that the appellant has not furnished any justification for non appearance or non submission of information/evidences before CIT(A), and as such the appeal deserves to be dismissed.

At the same time, Learned DR for the department has submitted that in case Court feels that one more opportunity should be granted to the assessee, it should be subject to costs, having regard to conduct of the appellant in the appellate proceedings.

5. Vide assessment order, the Assessing Officer, assessed income of the assessee at Rs. 50,69,980/- by making addition of Rs. 21,27,393/-. Said addition came to be made by observing that the assessee could not establish in the assessment proceedings genuineness of sundry creditors, as reflected in the balance sheet as on 31.03.2012.

When the matter came up before Learned CIT(A), it was listed for hearing there on 8 dates, as reflected in para 3 of the impugned order. However, the assessee-appellant did not submit any response to the notices issued for initial 5 dates i.e. 26.02.2021 to 03.01.2024.

On two dates of hearing i.e. 11.01.2024 and 24.01.2024, assessee-appellant sought adjournment.

Ultimately, the appeal was listed for hearing on 08.08.2024 but, there was no appearance or any response from the appellant. Accordingly, Learned CIT(A) proceeded to dismiss the appeal, thereby upholding the assessment order.

6. Admittedly, the assessee-appellant did not appear before Learned CIT(A) on 6 dates, to furnish information/evidences in support of the grounds raised in the appellant. In the given situation, Learned CIT(A) had no option, but to proceed further.

7. On going through the assessment order, we find that addition has been made on the findings that the assessee reflected a sum of Rs. 21,27,393/- in the balance sheet as on 31.03.2012, by way of sundry creditors.

The assessee, in response to the show cause notices, put forth the plea that the assessee was also proprietor of M/s Gunesh Associates engaged in the business of transportation of goods by road, and that she was enclosing a chart giving details of sundry creditors outstanding as on 31.03.2012.

Since the point involved was as to the genuineness, creditworthiness and identity of the sundry creditors as reflected in the balance sheet, and onus to prove the same was on the assessee-appellant, but despite opportunities by Learned CIT(A), she failed to avail of the same, in the interest of justice, we deem it to be a fit case to provide another opportunity to the appellant to appear before Learned CIT(A) for decision afresh for effective adjudication of the issue involved.

Result

8. As a result, this appeal is disposed of, for statistical purposes, the impugned order passed by the Learned CIT(A) is hereby set aside and the appeal is restored to the files of Learned CIT(A) with the direction to decide

the appeal afresh, after providing reasonable opportunity to the assessee-appellant of being heard.

However, keeping in view that the assessee failed to avail of 6 opportunities granted by the Learned CIT(A), she is burdened with costs of Rs. 5000/-. The appellant to deposit the said amount of costs in "Prime Minister's National Relief Fund" and produce the receipt before Learned CIT(A) before commencement of the proceedings on remand.

File consignment to the record room after the needful is done by the office.

Order pronounced in the open court on 17/12/2024.

Sd/-
(गगन गोयल)
(GAGAN GOYAL)
लेखा सदस्य / Accountant Member

Sd/-
(नरेन्द्र कुमार)
(NARINDER KUMAR)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 17/12/2024

*Santosh

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- Smt. Bela Gupta, Jaipur.
2. प्रत्यर्थी / The Respondent- ACIT, Central Circle-3, Jaipur.
3. आयकरआयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्डफाईल / Guard File ITA No. 1178/JPR/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar