

आयकर अपीलीय अधिकरण
दिल्ली पीठ "एस एम सी", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER

आअसं.2399/दिल्ली/2024 (नि.व. 2012-13)

ITA No.2399/DEL/2024 (A.Y.2012-13)

Smt. Lokesh (W/o Bobby Singh) L/H Bobby Singh,
136, Tehsil Chopla, Near Water Tank, Garhmukteshwar,
Hapur, UP 245205

PAN: AXGPS-1907-F

..... अपीलार्थी/Appellant

बनाम Vs.

Income Tax Officer,
Ward-2(3)(5), Meerut Road, Adarash Nagar Colony,
Madhuban Colony, UP 245101

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : None

प्रतिवादीद्वारा/ Respondent by : Shri Rajesh Tiwari, Sr. DR

सुनवाई की तिथि/ Date of hearing : 09/12/2024

घोषणा की तिथि/ Date of pronouncement: : 09/12/2024

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (hereinafter referred to as 'the CIT(A)') dated 08.03.2024, for assessment year 2012-13.

2. A perusal of the impugned order reveals that the CIT(A) had issued notices to the assessee on four occasions on email address provided by the assessee/appellant but there was no response from the assessee side. Hence, the CIT(A) dismissed appeal for non-prosecution. It is no more *res integra* that the CIT(A) has no power to dismiss appeal for non-prosecution [Re. CIT vs. Premkumar Arjundas Luthra (HUF) 69 taxmann.com 407 (Bom)]. The provisions of section 250 r.w.s 251 of the Income Tax Act, 1961(hereinafter referred to as 'the Act')

mandates CIT(A)/JCIT(A) to dispose of appeal on merits. A perusal of the assessment order shows that the same has also been passed u/s. 144 of the Act. The Id. Counsel for the assessee submitted that the Assessing Officer (AO) had issued notice u/s. 148 of the Act on the wrong address and in the wrong name. Thus, the notice was never served on the assessee. In the absence, of any notice of assessment proceedings none could appear to represent the assessee before the AO. Taking into consideration entire facts of the case, I deem it appropriate to restore this appeal back to the Assessing Officer for *denovo* assessment, after issue of notice to the assessee on the correct address.

3. The assessee is directed provide to correct address to the AO for service of notice within three weeks from the date of this receipt of this order. The assessee upon service of notice shall respond to the same, without fail. The Assessing Officer shall frame fresh assessment after affording reasonable opportunity of making submissions to the assessee, in accordance with law.

4. In the result, appeal of the assessee is allowed for statistical purpose in the terms aforesaid.

Order pronounced in the open court on Monday the 09th day of December, 2024.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

दिल्ली/Delhi, दिनांक/Dated 09/12/2024

NV/-

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

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

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, DELHI