

IN THE INCOME TAX APPELLATE TRIBUNAL  
JAIPUR BENCH "SMC", JAIPUR  
BEFORE Dr. S. SEETHALAKSHMI, JUDICIAL MEMBER AND  
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER  
ITA No. 972/JPR/2024 (A.Y.2011-12)

**Jai Prakash Sharma,**

15,Anand Nagar,

Harmada Sikar Road,

Jaipur – 302 013.

PAN No.:BCNPS 9502H

..... Appellant

Vs.

**ITO, Ward 4(4),**

Statue Circle, Jaipur – 302 001.

..... Respondent

Appellant by : Mr. G. M. Mehta, CA, Ld. AR

Respondent by : Mr. Gautam Singh Choudhary, JCIT, Ld.  
DR. -VH

Date of hearing : 12/12/2024

Date of pronouncement : 20/12/2024

**ORDER**

**PER GAGAN GOYAL, A.M:**

This appeal by assessee is directed against the order of NFAC, Delhidated 20.05.2024 passed u/s. 250 of the Income Tax Act, 1961 (in short 'the Act') for A.Y. 2011-12. The assessee has raised the following grounds of appeal:-

1. Ld. CIT (A) NFAC has erred in law and on facts in justifying the reopening the case on borrowed satisfaction without proving service of notice under section 148 of IT Act on the assessee.

2. Without prejudice to ground no. (1) Id. CIT(A) was not justified in dismissing the appeal and confirming addition of Rs. 12,06,189/- for the sales made out of genuine purchases, by submitting Income tax Return under deeming provisions of section 44AD of Income Tax Act on total sales achieved.

3 The brief facts of the case are that the assessee individual filed his return of income declaring total income at Rs. 1, 61,190/- for the year under consideration. Thereafter, the revenue was in possession of an information received from the office of REIC that the assessee had sold gems and Jewellery for Rs. 12, 06,189/- vide bill no. 252, dated: 02.04.2010. It is also confirmed in the enquiry of the State Commercial Department that no gems and Jewellery business had been done by the assessee's firm, i.e. M/s. Konark Impex in its business premises.

4 Based on above information, a notice u/s. 148 of the Act was issued to the assessee vide dated: 16.04.2015. In response to this neither return of income nor was any other reply ever filed by the assessee. Ultimately, the case of the assessee was assessed *Ex-Parte* u/s. 144 r.w.s. 143(3) & 147 of the Act by making an addition of Rs. 12, 06,189/- as undisclosed income. The assessee being aggrieved with this order preferred an appeal before the Ld. CIT (A), who in turn dismissed the appeal of the assessee, as the assessee never came forward to attend the hearings before the Ld. CIT (A). The assessee being further aggrieved with the order of the Ld. CIT (A) preferred the present appeal before us.

5. We have gone through the order of the AO, order of the Ld. CIT (A) and submissions of the assessee along with original ground of appeal and additional ground of appeal raised before us vide application filed on 19.11.2024. As observed (*supra*), the assessee never attended the hearings before the AO and thereafter before the Ld. CIT (A) also. Facts of the matter and law involved never

discussed before the authorities below, in such a situation, we deem it fit to restore the matter back to the file of the Ld. CIT (A) for fresh hearing after giving the assessee a fresh opportunity of being heard and the assessee is directed to participate in the proceedings without seeking any adjournment. **Grounds raised by the assessee are allowed for statistical purposes.**

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

Order pronounced in the open court on 20<sup>th</sup> day of December 2024.

Sd/-

(Dr. S. SEETHALAKSHMI)  
JUDICIAL MEMBER

Sd/-

(GAGAN GOYAL)  
ACCOUNTANT MEMBER

Jaipur, दिनांक/Dated: 20/12/2024

**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	20.12.2024		Sr.PS/PS
2	Draft Placed before author	20.12.2024		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			

