

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

डा० एस. सीतालक्ष्मी, न्यायिक सदस्य एवं श्री गगन गोयल, लेखा सदस्य, के समक्ष  
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI GAGAN GOYAL, AM

आयकर अपील सं./ITA No. 1043/JPR/2024  
निर्धारण वर्ष / Assessment Year : 2012-13

Sh. Satish kumar Gupta 166 Shiv Vihar Opp. Road No. 5, VKI Area, Jaipur.	बनाम Vs.	Income Tax Officer TDS, Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AEXPG9716L		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assesseeby : Shri P.C. Jain, (C.A.)  
राजस्व की ओरसे / Revenue by : Shri Gautam Singh Choudhary, (JCIT-DR)

सुनवाई की तारीख / Date of Hearing : 20/11/2024  
उदघोषणा की तारीख / Date of Pronouncement: 03/01/2025

आदेश / ORDER

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

This appeal filed by the assessee is directed against order of the ld. CIT(A) dated 27-06-2024, National Faceless Appeal Centre, Delhi [ hereinafter referred to as (NFAC) ] for the assessment year 2012-13 raising therein following grounds of appeal.

“1. That the learned Commissioner income tax appeals has erred in maintaining the levy of TCS of Rs. 246886/- on turnover of Rs. 24688622/-. The levy of TCS is wrong and illegal because we dealing iron material and not scrap therefore TCS is not applicable. The CIT(A) has not considered our reply submitted on 26.06.2024.

2.1 Apropos solitary ground of the assessee, it is noticed that the ld. CIT(A) has passed an ex-parte order by dismissing the appeal of the assessee. The narration so made by the ld. CIT(A) in his order is reproduced as under:-

“3. Decision

The appellant has raised 2 grounds of appeal.

The ground no. 1 is that the learned Income Tax Officer is wrong & illegal in lying TCS of Rs. 2,46,886/- for the A.Y. 2012-13.

The grounds no.2 is that the learned Income Tax Officer is wrong & Illegal in charging interest of Rs. 1,02,160/- u/s 206C(7) of the I.T. Act for the A.Y. 2012-13.

3.1. In appellate proceedings before the NFAC (Appeals), the assessee was provided with multiple hearing opportunities to submit the documentary evidences in support of grounds of Appeal on following dates:

S. No.	Haring order date	Date of compliance	Remarks
1.	07.06.2021	22.06.2021	No response received
2.	08.09.2021	23.09.2021	No response received
3.	24.01.2022	08.02.2022	No response received
4.	20.06.2024	26.06.2024	No response received

3.2 In view of the above, it is clear that multiple hearing opportunities have been provided to the appellant. However, appellant has failed to submit any documentary evidence in support of grounds of appeal. The above details show that the appellant is not serious to pursue his appeal and has nothing to submit. So, I am constrained to uphold the addition made by the assessing officer for want of explanation and documentary evidences as well as on merit too. In the circumstances, the grounds of appeal are dismissed.

The grounds of appeal are dismissed.”

4. Result:

In the result, the appeal is dismissed.

2.2 During the course of hearing, the ld. AR of the assessee prayed that one more chance may be provided to submit documentary evidence and written submission in support of his ground before the ld. CIT(A) so that he may get adequate justice to counter the demand as made by the AO.

2.3 On the other hand, the ld. DR supported the order of the ld. CIT(A) and submitted that the assessee was lethargic in providing the details before the ld. CIT(A) in spite of various opportunities by the ld. CIT(A).

2.4 We have heard both the parties and perused the materials available on record. The Bench noticed from the records that ld. CIT(A)/ NFAC had given four opportunities to the assessee to submit the documentary evidences in support of his appeal but the assessee did not provide him details/ documents. Thus the ld. CIT(A) passed an ex-parte order. The Bench also noticed that it is an admitted fact that the assessee is ex-parte before the ld. CIT(A). Therefore, he could not put forth his 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 ld. CIT(A) 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.

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

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

Order pronounced in the open court on 03 /01/2025

Sd/-

Sd/-

( गगन गोयल )  
(GAGAM GOYAL)  
लेखा सदस्य / Accountant Member

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

जयपुर / Jaipur

दिनांक / Dated:- 03/01/2025

\*Santosh

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- Sh. Satish Kumar Gupta, Jaipur.
2. प्रत्यर्थी / The Respondent- ITO, TDS, Jaipur.
3. आयकरआयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्डफाईल / Guard File ITA No. 1043/JPR/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar