

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE

BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI UDAYAN DAS GUPTA, JUDICIAL MEMBER

ITA No.389/Ind/2024
Assessment Year:2017-18

Sunita Garg, 26 Maharaja Complex, Kothari Marg, Indore	<u>बनाम/</u> Vs.	ITO 4(1), Indore
(Assessee/Appellant)		(Revenue/Respondent)
PAN: ABOPG0350N		
Assessee by	Shri S.S. Solanki, AR	
Revenue by	Shri Ashish Porwal, Sr.DR	
Date of Hearing	30.01.2025	
Date of Pronouncement	31.01.2025	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by order of first-appeal dated 30.03.2024 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 16.11.2019 passed by learned ITO-4(1), Indore ["AO"] u/s 143(3) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2017-18, the assessee has filed this appeal on the grounds mentioned in Appeal Memo (Form No. 36).

2. Ld. AR for assessee carried us to the assessment-order to demonstrate that the AO has made additions of (i) Rs. 87,00,000/- on account of unexplained unsecured loans, (ii) Rs. 3,38,175/- on account of disallowance of interest claimed by assessee on such unsecured loans, (iii) Rs. 40,11,000/- on account of unexplained deposits in bank a/c, and (iv) Rs. 2,62,770/- on account of disallowance u/s 40A(2) and thereby assessed total income of assessee at Rs. 1,37,63,955/- as against returned income of Rs. 4,52,010/-. Ld. AR submitted that during assessment-proceedings, the assessee was not able to file documentary evidences which has resulted in these hefty additions. However, during first-appeal the assessee could collect part of the evidences and submit before CIT(A) but the CIT(A) merely re-produced the Grounds of Appeal and Assessee's Submissions and finally upheld AO's order in just 3 sentences by stating as under:

"5. Findings

The grounds of appeal, the facts and circumstances of the case, the submissions made by the assessee have been carefully considered. There is no material on record to warrant interference with the order of the AO. Grounds of appeal are accordingly dismissed."

3. Ld. AR next submitted that the assessee has collected and having possession of all evidences required by AO for an apt adjudication. These evidences are also filed in Tribunal in the form of a box file. Ld. AR submitted that the assessee is ready to file and explain these evidences to AO and also any other evidence as the AO may further require. Accordingly, this case needs to be remanded to AO for a fresh adjudication after examination of evidences.

4. Ld. DR for revenue agrees with the prayer of Ld. AR but makes a request to remand this case to Jurisdictional AO ["JAO"] and also urges that the assessee should be directed to make adequate representation before JAO without seeking unnecessary adjournments.

5. Considering above submissions and also having regard to the principle of natural justice and fair play, we deem it fit to remand this matter back to the file of JAO for a proper verification and adjudication on merit, at the risk and responsibility of assessee. The JAO shall give necessary opportunity of hearing to assessee and pass an appropriate order uninfluenced by his earlier order. The assessee is also directed to ensure participation in the hearings as may be fixed by JAO and do not seek unnecessary adjournments failing which the JAO shall be at liberty to pass appropriate order in accordance with law. Ordered accordingly.

6. Resultantly, this appeal is allowed for statistical purpose.

Order pronounced in open court as per Rule 34 of ITAT Rules, 1963 on 31/01/2025
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Sd/-

(UDAYAN DAS GUPTA)
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 31/01/2025
Dev/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order
Assistant Registrar
Income Tax Appellate Tribunal
Indore Bench, Indore