

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER

AND

SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

ITA No.481/Ind/2024
Assessment Year:2012-13

Grand Consulting Services Pvt. Ltd. 403 C IVth Floor, Gravity Mall, 27 Mechanic Nagar, Scheme 54, Bhamori Indore	<u>बनाम/</u> <u>Vs.</u>	ITO-2(1) Indore
(Assessee/Appellant)		(Revenue/Respondent)
PAN: AADCG4729N		
Assessee by	Shri Manish Dafaria, CA & AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	02.01.2025	
Date of Pronouncement	27.01.2025	

आदेश / O R D E R

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

Feeling aggrieved by order of first-appeal dated 11.10.2023 passed by learned Commissioner of Income-Tax (Appeals), NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 06.12.2017 passed by learned ITO-2(1), Indore ["AO"] u/s 144 r.w.s. 147 of Income-tax Act, 1961 ["the Act"]

for Assessment-Year ["AY"] 2012-13, the assessee has filed this appeal on the grounds mentioned in Appeal Memo (Form No. 36).

2. Originally, the assessee filed *ITA No. 514/Ind/2023* against impugned order without proper verification in Appeal Memo (Form No. 36). Therefore, the ITAT, Indore bench dismissed assessee's appeal vide order dated 09.05.2024 as under:

"4.2 Thus, it is clear that the Form number 36 has not been verified by the person who is prescribed as per section 140 r.w. Rule 47(1) and Rule 45(3) of the Income-tax Rules, 1962 and consequently the present appeal of the assessee is not valid appeal. Accordingly, the appeal of the assessee is dismissed in limine being not a valid appeal. The assessee is at liberty to file a fresh valid appeal within a period of 30 days from this order."

3. Subsequently, the assessee has filed the present appeal registered as *ITA No. 481/Ind/2024* on 03.06.2024 which is within 30 days from 09.05.2024 as per liberty granted by ITAT. Therefore, the present appeal before us is considered well within time and proceeded for hearing.

4. Ld. AR for assessee drew us to Para 4 and 5 of assessment-order and submitted that the AO has passed assessment-order ex-parte to assessee

u/s 144 after observing that the notices u/s 142(1) sent by him were returned back. Ld. AR submitted that the AO sent notices to old address which was given by assessee at some point of time in past but thereafter the address of assessee has changed. Therefore, the notices sent by AO were not served upon assessee. Ld. AR next submitted that the AO has made an addition of Rs. 25,00,000/- in the hands of assessee based on search conducted in case of one Mr. Vipul Bhatt and his related entities. However, the assessee completely denies any allegation levelled by AO and wants to make an adequate representation before AO. Therefore, the present matter should be restored at the level of AO for adjudication afresh after hearing assessee.

5. Ld. DR for revenue does not have any objection if the case is remanded to AO but makes twin-requests, namely (i) the case should be remanded to Jurisdictional AO ["JAO"] and (ii) the assessee should be directed to represent his case before JAO without seeking unnecessary adjournments.

6. 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 fresh adjudication, 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.

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

Order pronounced by putting on notice board as per Rule 34 of ITAT Rules, 1963 on 27/01/2025

Sd/-

(DINESH MOHAN SINHA)
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 27/02/2025

Patel/Sr. PS

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

By order
Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore