

आयकरअपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "A-Bench" JAIPUR

श्री गगन गोयल, लेखा सदस्य एवं श्री नरेन्द्र कुमार, न्यायिक सदस्य के समक्ष
BEFORE: SHRI GAGAN GOYAL, AM & SHRI NARINDER KUMAR, JM

आयकरअपील सं./ITA No. 16/JP/2025
निर्धारणवर्ष/Assessment Year: 2008-09

Shri Kalyan Sahay Meena Aman Dhar Ki Dhani, Terminal-2, Sawai Getor, C-Block, Siddharth Nagar, Jagatpura	बनाम Vs.	The ITO Ward 7(2) Jaipur
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.:BFWPM 0124 D		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assessee by : Shri Tarun Mittal, CA
राजस्व की ओरसे / Revenue by: Sh. Manoj Kumar, JCIT-DR.

सुनवाई की तारीख / Date of Hearing : 26 /02/2025
उदघोषणा की तारीख / Date of Pronouncement : 27 /02/2025

आदेश / ORDER

PER: NARINDER KUMAR, JUDICIAL MEMBER

Present appeal came to be presented on 8-01-2025 thereby challenging the order dated 02-03-2023 passed by Id. CIT(A), NFAC, Delhi, relating to assessment year 2008-09.

2. Vide impugned order, Id CIT(A) dismissed the appeal which was filed by the assessee against the assessment order dated 31-03-2016 passed u/s 147 r.w.s. 144 of the Act.

3. Vide assessment order dated 31-03-2016, the AO computed long term capital gain of the assessee at Rs.1,84,03,432/-, while taking into consideration the sale consideration of the immovable property u/s 50C of the Act, and deducting Indexed Cost of Acquisition to the tune of Rs.27,550/-.

4. Since the impugned order was passed by the Id.CIT(A) of 2-03-2023, and the appeal came to be presented here on 8-1-2025, Registry recorded a deficiency note that the appeal was presented 588 days after prescribed period of limitation.

That is why, an application has been filed by the assessee seeking condonation of delay in filing of the appeal.

5. Arguments heard. File perused..

6. On the application seeking condonation of delay, Id AR for the appellant has submitted that the assessee-applicant could not participate in the appeal, after remand report was called by Id. CIT(A), as regards additional evidence, for want of service of notice on the assessee personally.

7. A perusal of Form 35 submitted before the Id.CIT(A) would reveal that E-mail ID in Column No. 17 thereof was: opagarwalandco@gmail.com”.

In the course of arguments, the Id. AR for the applicant admits that this E-mail ID is of the Authorised Representative of the assessee, through whom the appeal was filed.

Having regard to the said E-mail Id of the AR of the assessee, who presented appeal before the ld.CIT(A), ld.DR for the Department has submitted that it is not the case of the applicant that notices were not served upon his AR by the Office of the ld. CIT(A) at the said E-mail ID, and there being no sufficient ground for condonation of delay, the application deserves to be dismissed.

8. Admittedly, the ld. AR of the assessee who presented before the ld .CIT(A) had given his own E-mail ID in Column No 17 for the purpose of service of notices. In this situation, it was for the AR of the assessee-appellant to explain as to why he did not apprise the assessee about the notice received in connection with remand report proceedings before the AO.

It is true that when an assessee engages some Tax Consultant or Tax Practitioner or Advocate, as his representative to represent him in certain proceedings, it does not mean that the assessee should forget about the said proceedings or to contact the AR to acquaint himself about the progress in the said proceedings.

The assessee-applicant has not submitted any affidavit of the AR through whom appeal was filed before the ld CIT(A).

It is not the case of the assessee that he filed any complaint against his AR for not having informed him about the receipt of the notice in connection with remand report proceedings before the AO.

9. In the given circumstances, we deem it a fit case to allow application seeking condonation of delay, but with the direction for deposit of cost of Rs.2,500/- in the Prime Minister's National Relief Fund.

10. Arguments have also been advanced on merits, today itself. File perused.

11. Ld. AR for the appellant has submitted that in the appeal before the ld. CIT(A) that certain additional evidences were submitted, whereupon ld. CIT(A) called for remand report from the AO, but, the appellant could not file response to the notice received from the AO.

ld. AR submits that because of no communication from the AR, no response could be submitted to the said notice issued by the AO in connection with remand report proceedings. He however submits that one opportunity be provided to the assessee to participate in the proceedings relating to the remand report as requisitioned by the ld. CIT(A).

12. Ld.DR for the Department submits sufficient opportunity was provided by the AO in connection with remand report proceedings, but the assessee did not submit any response. However, ld DR has no objection to the grant of another opportunity to the assessee to furnish his response to the notice issued in connection with remand report proceedings.

Having regard to the facts and circumstances of the issues involved, we find that assessee should have submitted his response to the notice issued by the AO, particularly when the appellant himself had submitted additional evidences before the Id. CIT(A). But, he failed to do so. This shows sheer negligence from the side of the appellant.

13. However, taking into consideration the issues involved, we deem it a fit case to allow an opportunity to the assessee to restore the appeal before Learned CIT(A).

Result

14. As a result, this appeal is disposed for statistical purposes and appeal is before Learned CIT(A) is restored for decision afresh from the stage, remand report was called for by the CIT(A) as regards additional evidence.

The appellant to appear before the Id. CIT(A), without fail, for compliance of necessary directions in this regard so that the AO is able to conduct proceedings as regards the additional evidence and then submit remand report so as to enable the Id. CIT(A) to decide the appeal afresh on merit.

However, taking into consideration the negligence from the side of the assessee, as noticed above, the assessee is burdened with additional cost of Rs.2,500/- to be deposited in the Prime Minister's National Relief Fund, with the

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direction that copy of the challan regarding deposit of cost shall be presented before the Id. CIT(A).

Appeal file be consigned to record room after the needful is done by the office.

Order Pronounced in open court on 25/02/2025.

Sd/-
(गगन गोयल)
(GAGAN GOYAL)
लेखा सदस्य / Accountant Member

Sd/-
(नरेन्द्र कुमार)
(NARINDER KUMAR)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur
दिनांक / Dated 27 /02/2025

*Mishra, Sr. PS

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- Shri Kalyan Sahay Meena, Jaipur
2. प्रत्यर्थी / The Respondent- The ITO, Ward 7(2), ,Jaipur
3. आयकरआयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर /DR, ITAT, Jaipur
5. गार्डफाईल / Guard File ITA No.16/JP/2024)

आदेशानुसार / By order,

सहायकपंजीकार / Asstt. Registrar