

IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH (Virtual) JODHPUR

BEFORE DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER
AND SHRI UDAYAN DAS GUPTA, HON'BLE JUDICIAL MEMBER

ITA No. 256/Jodh/2024
(Assessment Year 2015-16)

Vijay Laxmi Garg 20, Meera Marg, Bherughat, Pali – 306401. PAN No. AAYPG2367G	Vs.	ACIT, Circle, Pali.
Appellant		Respondent
Assessee by	Shri Amit Kothari, C.A.	
Revenue by	Shri Karni Dan, Addl. CIT (Sr. D.R.)	
Date of Hearing	13.02.2025.	
Date of Pronouncement	24 .03 .2025.	

ORDER

DR. MITHA LAL MEENA, A.M.:

This appeal by assessee is directed against the order of National Faceless Appeal Centre [in short, the Ld. NFAC/ADDL/JCIT(A)] dated 19.12.2023 with respect to the assessment year 2015 16 challenging therein confirmation of addition of Rs. 20,62,601/- on account of remission of liability, claimed as debit balances on account of debtors.

2. We have heard both the sides and perused material on record. From the record, it is seen that the learned JCIT (A) rejected the appeal of the assessee exparte qua the assessee by observing as under:



“2. The facts of the case as noted above are that the appellant has not pursued the appeal despite being granted several opportunities as elaborated supra. No details documents or submissions have been provided to come to any conclusion other than those arrived at by the assessing officer in the order. The notices have been duly served upon the assessor via email. Regrettably no response whatsoever was forthcoming on the appointed date. Thus, nothing has been placed on record to substantiate as to why the addition made by the AO should not be sustained.”

3. The Ld. AR argued that the order passed by the Ld. JCIT was contrary to the principles of natural justice and had been made without due opportunity of hearing to the appellant. He contended that the Ld. JCIT(A) has erred in sustaining the addition of Rs. 20,62,601/- by way of wrongly stating the facts and interpreting that the disputed amount is remission of liability, while these were the debit balances of debtors, and that the entire basis of addition was bad in law and not justified. He pleaded that the matter may be restored to the file of the AO to examine the veracity of the evidence with reference to the debit entries of the debtors in the books of account of the assessee and counter verification from the debtors while passing assessment de novo after granting adequate opportunity of being heard to the assessee.

4. Per contra, the Ld. DR stands by the impugned order, however, he has no objection in remanding the matter to AO in view of natural justice.

6. Admittedly, the Ld. JCIT has passed orders ex parte qua the assessee. The Ld. AR argued that the worthy JCIT(A) decided the case ex parte without granting opportunity of the hearing while confirming the assessment order passed by the AO in arbitrary manner without appreciating the submission and material evidence. It is noted that while deciding the case ex-parte, the Ld. JCIT(A) has not appreciated the facts of the case and arbitrarily confirmed the assessment order regarding the addition of Rs. 20,62,601/- against remission of liability. However, neither the AO nor the Ld. CIT(A) has addressed the relevant matter regarding appellants claim that the amount disputed stands debit entries of the debtors in the books of account of the assessee. In our view, the authorities below have acted in violation of principles of natural justice.

7. The Hon'ble Supreme Court of India in the case of Tin Box Company vs. CIT reported in 249 ITR 216 in which their Lordships of Supreme Court of India observed as under:

“Assessment - Opportunity of being heard - Setting aside of assessment - Assessment order must be made after the assessee has been given reasonable opportunity of setting out his case - Same not done - Fact that the assessee could have placed evidence before the first appellate authority or before the Tribunal is really of no consequence for it is assessment order that counts — Assessment order set aside and matter remanded to assessing authority for fresh consideration.”



8. Accordingly, we consider it deem fit to restore back the matter to the file of the Ld. AO to pass de novo assessment after considering the written submission and evidence filed on record and may be filed before him during the fresh proceedings after granting sufficient opportunity of being heard to the assessee.

9. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced on..24../03..../2025 under Rule 34(4) of
Income Tax (Appellate Tribunal) Rules, 1963.


Sd _____
(UDAYAN DÁS GUPTA)
JUDICIAL MEMBER


Sd _____
(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER

Dated : 24/03./2025

Copies to :

- (1) The appellant.
- (2) The respondent.
- (3) CIT
- (4) CIT(A)
- (5) Departmental Representative
- (6) Guard File
- (7)

By Oder
Assistant Registrar,
Income Tax Appellate Tribunal,
Jodhpur Bench,
Jodhpur.