

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

ITA No.712/Ind/2024
Assessment Year:2010-11

Late Shri Wirendra Singh Bolia, 9, Manik Bag Road Indore (Assessee/Appellant)	<u>बनाम/</u> Vs.	ITO, NFAC Delhi (Revenue/Respondent)
PAN: ACIPB4270B		
Assessee by	Shri Soumya Bumb, AR	
Revenue by	Shri Ram Kumar Yadav, CIT-DR	
Date of Hearing	20.03.2025	
Date of Pronouncement	24.03.2025	

आदेश / O R D E R

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

Feeling aggrieved by order of first-appeal dated 12.08.2024 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 30.03.2022 passed by learned ITO, National Faceless Assessment Centre, Delhi ["AO"] u/s 147 r.w.s. 263 of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2010-11, the assessee has filed this appeal on the grounds mentioned in Appeal Memo (Form No. 36).

2. On hearing learned Representatives of both sides, it emerges that the CIT(A) has decided first-appeal *ex-parte* qua assessee for the reason that the assessee did not make any submission before him despite opportunities given vide notices dated 01.05.2024, 12.07.2024 and 29.07.2024. It is further observed that the CIT(A) has simply confirmed the order passed by AO and thereby upheld the additions but the grounds/issues raised by assessee in first-appeal requires an apt adjudication by CIT(A) on merit in accordance with provisions of 250(6) of the Act which provides *"The order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision."* Ld. AR for assessee submits that the original assessee "Shri Wirendra Singh Bolia" had already expired and his wife "Smt. Jasbir Kaur Bolia" is representing as Legal Heir. He further submits that the Legal Heir is also 96 years old and due to her advanced age, she was unable to make representation before CIT(A). He also pointed out that Ld. CIT(A) fixed three hearings within a very short span time also. He submits that the Legal Heir is ready and willing to make representation before CIT(A) if an opportunity is given and hence prays that in the interest of justice, the present matter should be remanded to CIT(A) for an apt adjudication.

3. Ld. DR for revenue agrees with the prayer of Ld. AR but makes a request to direct the Legal Heir to make representation before CIT(A) and do not seek unnecessary adjournments.

4. 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 CIT(A) for adjudication afresh. The CIT(A) shall give necessary opportunity of hearing to assessee and pass an appropriate order. **The CIT(A) will dispose of this matter in an expeditious manner since the Legal Heir is 96 years old and running in her advanced age.** The assessee is also directed to ensure participation in the hearings as may be fixed by CIT(A) and do not seek unnecessary adjournments failing which the CIT(A) shall be at liberty to pass appropriate order in accordance with law. Ordered accordingly.

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

Order pronounced in open court on 24/03/2025

Sd/-

(PARESH M. JOSHI)
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 24/03/2025

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