

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.540/Ind/2024
Assessment Year:2018-19

Samarpan Seva Samiti Samarth Desh Samardh Desh Near TV Power, Anupam Nagar, Raipur	<u>बनाम/</u> <u>Vs.</u>	ITO -2(1) Indore
(Assessee/Appellant)		(Revenue/Respondent)
PAN: AAFAS4932F		
Assessee by	Shri Pankaj Shah & Soumya Bumb, ARs	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	26.03.2025	
Date of Pronouncement	26.03.2025	

आदेश / O R D E R

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

Feeling aggrieved by order of first-appeal dated 27.05.2024 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 12.04.2021 passed by learned National e-Assessment Centre, Delhi ["AO"] u/s 143(3) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2018-19, the assessee has filed this appeal on the grounds mentioned in Appeal Memo (Form No. 36).

2. It emerged on perusal of orders of lower-authorities that the AO has though mentioned section 143(3) in assessment-order but actually passed ex-parte order in the nature of best judgement assessment u/s 144. The AO has noted in Para 5 to 11 of assessment-order the details of as many as 10 notices/reminders/show-cause notices given to assessee but the assessee did not comply. In Para 7, the AO has mentioned "*It is observed that the assessee is a habitual non-complier*". Further, the CIT(A) has also noted in Para 5.2 and 5.4 of impugned order that during first-appellate proceedings, opportunities were given to assessee on 23.01.2024, 08.04.2024 and 08.05.2024 but the assessee only sought adjournments and did not file any documentary evidence.

3. Ld. AR submitted that the AO issued notices during Covid-19 period and further that the assessee is a charitable entity being handled by honorary office-bearers, hence a liberal view should be taken and in the interest of justice this case must be restored at the level of AO for adjudication afresh. He asserted that the assessee shall be making adequate participation before AO on the dates of hearing.

4. Ld. DR for revenue agreed that he has no objection if the case is remanded to the file of AO. However, he emphasized the non-cooperative attitude of assessee and requested to issue stricter directions to assessee.

5. In view of 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 AO for adjudication afresh, at the risk and responsibility of assessee and **subject to payment of cost of Rs. 2,000/- to Prime Minister National Relief Fund and production of challan to AO.** The AO 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 AO and do not seek unnecessary adjournments failing which the AO 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 immediate after conclusion of hearing and subsequently reduced in writing on same day.

Sd/-

(PARESH M. JOSHI)
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 26/03/2025

Patel/Sr. PS

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

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