

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

IT(SS)A Nos.73 to 79/Ind/2024
(AYs: 2009-10 to 2015-16)
&
ITA Nos. 608 to 614/Ind/2024
(AYs: 2009-10 to 2015-16)
&
ITA Nos. 615 to 620/Ind/2024
(AYs: 2010-11 to 2015-16)
&
ITA Nos. 621 to 625/Ind/2024
(AYs: 2011-12 to 2015-16)

Om Shanti Motors, 32, Shaheed Bhagat Singh Chowk, Bhanpur, Vidisha Road, Bhopal	<u>बनाम/</u> Vs.	DCIT Central-1/ ACIT Central-1 Bhopal
(Assessee/Appellant)		(Revenue/Respondent)
PAN: AABFO4504C		
Assessee by	Shri Kunal Agrawal & Shri Harsh Choukse, ARs	
Revenue by	Shri Ram Kumar Yadav, CIT-DR	
Date of Hearing	01.04.2025	
Date of Pronouncement	04.04.2025	

आदेश / O R D E R

Per Bench:

This bunch of 25 appeals is filed by assessee for A.Y. 2009-10 to 2015-16.

Brief details of these appeals are as under:

Om Shanti Motors
IT(SS)A No. 73 to 79/Ind/2024 & 608 to 625/Ind/2024
AYs: 2009-10 to 2015-16

	ITA No.	A.Y.	Order appealed against ["impugned order"]		Original order		
			Order dated	Passed by	Order dated	Passed by	Nature of proceeding
1	73/Ind/2024	2009-10	10.06.2024	CIT(A)-3, Bhopal	Assessment-order dated 06.12.2016	DCIT(Central)-I, Bhopal	Assessment u/s 153A/143(3)
2 to 7	74/Ind/2024 to 79/Ind/2024	2010-11 to 2015-16	10.06.2024	CIT(A)-3, Bhopal	Assessment-order dated 09.08.2017	DCIT(Central)-I, Bhopal	Assessment u/s 153A/143(3)
8	608/Ind/2024	2009-10	23.07.2024	CIT(A)-3, Bhopal	Penalty-order dated 22.03.2019	JCIT(OSD)-Central-I, Bhopal	Penalty u/s 271(1)(c)
9	609/Ind/2024	2010-11	23.07.2024	CIT(A)-3, Bhopal	Penalty-order dated 22.03.2019	JCIT(OSD)-Central-I, Bhopal	Penalty u/s 271(1)(c)
10	610/Ind/2024	2011-12	23.07.2024	CIT(A)-3, Bhopal	Penalty-order dated 22.03.2019	JCIT(OSD)-Central-I, Bhopal	Penalty u/s 271(1)(c)
11	611/Ind/2024	2012-13	23.07.2024	CIT(A)-3, Bhopal	Penalty-order dated 22.03.2019	JCIT(OSD)-Central-I, Bhopal	Penalty u/s 271(1)(c)
12	612/Ind/2024	2013-14	23.07.2024	CIT(A)-3, Bhopal	Penalty-order dated 22.03.2019	JCIT(OSD)-Central-I, Bhopal	Penalty u/s 271(1)(c)
13	613/Ind/2024	2014-15	23.07.2024	CIT(A)-3, Bhopal	Penalty-order dated 22.03.2019	JCIT(OSD)-Central-I, Bhopal	Penalty u/s 271(1)(c)
14	614/Ind/2024	2015-16	23.07.2024	CIT(A)-3, Bhopal	Penalty-order dated 22.03.2019	JCIT(OSD)-Central-I, Bhopal	Penalty u/s 271AAB
15 to 25	615/Ind/2024 To 625/Ind/2024	2010-11 To 2015-16	23.07.2024	CIT(A)-3, Bhopal	Penalty-order dated 28.02.2018	JCIT, Central Range, Bhopal	Penalty u/s 271D & 271E

2. Since these appeals relates to same assessee; the parties have been represented by same counsels and the underlying facts/issues/controversies are similar/related, we heard these appeals analogously at the request of parties and proceed to decide them by this consolidated order for the sake of clarity, brevity and convenience.

3. The appeals at S.No. 1 to 7 are 'quantum-appeals' and appeals at S.No. 8 to 25 are 'penalty-appeals'. We first take up 'quantum-appeals' and thereafter 'penalty-appeals'.

Quantum Appeals - IT(SS)A No. 73 to 79/Ind/2024:

4. This is 2nd round of quantum-appeals by assessee before ITAT. The background facts leading to these appeals are such that the assessee is a partnership firm engaged in trading business of automobiles and automobile related works. A search u/s 132 of the Income-tax Act, 1961 was conducted upon a "Regal Homes Group of Bhopal" including assessee on 12.08.2014 pursuant to which the assessments of assessee for seven AYs 2009-10 to 2015-16 were framed u/s 153A/143(3) vide two assessment-orders dated 06.12.2016 and 09.08.2017 after making certain additions. Aggrieved, the assessee carried all seven matters in first-appeals before CIT(A) whereupon the CIT(A) dismissed assessee's appeals vide orders dated 13.03.2018 *ex-parte* to assessee due to non-prosecution, while upholding the AO's orders. The assessee thereafter carried matters before ITAT, Indore Bench in *IT(SS)A Nos. 97 to 103/Ind/2018* whereupon the ITAT also decided assessee's appeals *ex-parte* to assessee because of non-presence but after hearing the Departmental Representative. The ITAT passed a consolidated order dated 24.10.2019 remanding all seven matters to CIT(A) for a fresh adjudication; the concluding para of ITAT's order is reproduced below:

"3.हमने विद्वान विभागीय प्रतिनिधि को सुना है तथा निम्न प्राधिकारियों के आदेशों का अवलोकन किया है। हमने पाया कि वर्तमान अपीलों में, निर्धारिती को उचित एवं प्रभावी अवसर नहीं दिया गया था। इसके अतिरिक्त, विद्वान आयकर आयुक्त (अपील) ने आदेश

गुणागुण पर पारित नहीं किये थे जो कि न्यायसंगत नहीं हैं। अतः न्याय के हित में, हम विद्वान आयकर आयुक्त (अपील) के आदेशों को अपास्त करना उपयुक्त समझते हैं। ये अपीलें निर्धारिती को सुनवाई का उचित अवसर देने के पश्चात विधि के अनुसार गुणागुण पर निर्णयित करने के निदेश के साथ विद्वान आयकर आयुक्त (अपील) की फाईल में प्रतिप्रेषित की जाती हैं तथा निर्धारिती को भी इस संबंध में विद्वान आयकर आयुक्त (अपील) के समक्ष उपस्थित होने / सहयोग करने का निदेश दिया जाता है।”

This way, the first round of proceeding ended.

5. Pursuant to above order of ITAT, the CIT(A) resumed the proceeding of fresh adjudication. The CIT(A) issued various notices of hearings to assessee but finding no response from assessee ultimately passed *ex-parte* orders dated 10.06.2024 again upholding the AO's orders. The CIT(A) has made following observation while passing *ex-parte* orders:

Page 2 of CIT(A)'s order of AY 2009-10:

“1.1. The appeals were fixed for hearing on 27.04.2021, 20.07.2021, 14.09.2021, 08.11.2021. The appellant on 08.11.2021 filed a letter through ITBA requesting for adjournment of the case on or after 01.12.2021. The request of the appellant was considered and the case was fixed for hearing on 06.12.2021. The appellant did not respond the notice. The case was again fixed for hearing on 01.02.2022. The appellant again requested for adjournment. The same was again considered and the case was further fixed for hearing on 12.04.2022, 27.02.2024 and 04.06.2024. However, the appellant did not respond any notices. It is quite evident from the chronology of event that despite several opportunities being granted from time to time, there has been absolutely no compliance on part of the appellant to give detailed explanation regarding ground of appeals taken for the years under consideration. This clearly shows that despite clear directions of Hon'ble ITAT, the appellant is not keen to pursue the above mentioned appeals and cooperate in finalization of appeal and has nothing to say further.”

6. The assessee is now aggrieved by orders dated 10.06.2024 [“**impugned orders**”] passed by CIT(A) and has come in these appeals. **Thus, it is 2nd round before ITAT.**

7. Before us, Ld. AR for assessee filed following Written-Submission at the start of final hearing on 01.04.2025:

“With reference to the above captioned matter, on behalf of the appellant, we most humbly beg to submit the following for Your Honor’s kind consideration: -

*1. That, the assessment order passed in the assessee’s case for the AY 2009-10 to AY 2015-16 were passed on a **very high-pitched level**. The additions made were **very erroneous and illegal**. We are tabulating hereunder the relevant fact of high- pitched assessments made:*

ASSESSMENT YEAR	RETURNED INCOME	ASSESSED INCOME	ASSESSED INCOME / RETURNED INCOME
2009-10	48,030	65,18,095	136 TIMES
2010-11	11,11,214	1,66,91,440	15 TIMES
2011-12	23,24,370	2,85,87,596	12 TIMES
2012-13	23,21,480	4,14,67,300	18 TIMES
2013-14	20,21,140	4,70,10,870	23 TIMES
2014-15	22,19,470	2,29,14,260	10 TIMES
2015-16	5,40,910	2,82,29,270	52 TIMES
TOTAL	1,05,86,614	19,14,18,831	18 TIMES

*2. From the perusal of the above, it is clearly evident that the assessment made is unrealistic and high pitched. It is humbly submitted that during the search proceedings, no such corresponding undisclosed assets were unearthed by the department which could justify such high pitch additions. Even if the said assessment orders were passed by the Ld. AO without proper representation of the erstwhile counsel of the assessee, **it did not give any legal right to the Ld. AO to do absurd and meaningless additions. The Income tax Act never propagate such type of high-pitched additions. The principles of real income is cardinal principle to be kept in mind and strictly followed while making any assessment order.***

3. That, the Ld. CIT(A) passed the appeal orders dated 10.06.2024 relating to Seven assessment orders and appeals orders passed on dates 15.07.2024 and 23.07.2024 relating to Eighteen Penalty orders without giving any proper opportunity of being heard. The hearing notices issued in the calendar year 2024 were never served on the assessee. From the Income tax portal, it was deciphered that these notices were served on some mail id which never belonged to the assessee. The mail Id Karishmabhargava@Ymail.com and sfvaishali@yahoo.co.in did not belong to assessee firm or any of its partners and were never specified in any of the Form 35 of the impugned appeals.

4. **Thus, it was the fault of the Ld. CIT(A) to issue notices on wrong mail id's.** Even the appeal-order was served on such mail ID's (As the notice intimating the DIN of the orders were served on the wrong email id's) and the assessee came to be aware of such happening when the current counsel of the assessee proceeded to make suo moto submissions but ultimately found that the order has been already passed without giving the proper opportunity of being heard. In order to justify this fact, **we are submitting the copy of snapshot of IT portal of some of the assessment year specifying the Mail Id's on which service of relevant notices were made along with the affidavit dated 24.03.2025 of the assessee partner Shri Sanjay Jain who has affirmed all these facts duly sworn before public notary officer along with the reply.**

5. As per Para 11 of the Ld. CIT(A) order (Quantum appeals), it is mentioned that the assessee was given opportunities and the case were fixed for hearing on dates 27.04.2021, 20.07.2021, 14.09.2021, 08.11.2021, 06.12.2021, 12.04.2022, 27.02.2024 and 04.06.2024.

6. In this regard, it is submitted that the notices given in the calendar year 2021 & 2022 was peak of Covid-19 Pandemic due to which there was genuine issue to make the relevant submissions as voluminous preparation had to be undertaken to counter the high-pitched addition made by the Ld. AO which required constant interaction with the assessee's partners and their staff which could not be done due to various lockdowns time to time and overall adverse scenario. In between, the assessee had also arranged seized material from the department for the necessary preparation due to which also some time was required. But after the year 2022, the Ld. CIT(A) directly issued the notices in the calendar year 2024 which as stated above were not served and therefore could not be complied. Thus, there was more than reasonable/sufficient cause for the assessee to not make submissions during the appeal proceedings.

7. Now, the Bonafide of the assessee itself gets proved that despite not receiving the appeal order of the Ld. CIT(A) as it was sent on wrong mail id, the assessee filed the appeal before the Hon'ble ITAT Bench, Indore on time without any delay. The assessee's case before the Hon'ble bench was fixed for hearing first time on **11.03.2025 where counsels did not take any unnecessary adjournment and presented the case on the first date itself.**

8. Further, the assessee has submitted the written submission of the case along with documentary evidences for the A.Y. 2009-10 to 2015-16 which was to be submitted before the Ld. CIT(A) and the said submissions are almost totaling to around 5000-6000 Pages which itself proves that the assessee is very serious in pursuing the appeals and has full respect for the appellate/judicial system of India. Had the assessee given proper notices by the Ld. CIT(A), this submission would have been submitted before the said authority only.

9. Since the submissions are so voluminous and assessment made is high pitched without any meaningful representation, we pray before the Hon'ble bench to set aside the case to the file of Ld. AO. Also, the assessee case stands justified before the Hon'ble bench, as it is requesting after submitting the relevant submissions before your honors. That, the case would have been different if the request to set aside the matter to the Ld. AO would have been made without bringing the relevant submissions of the case before the Hon'ble bench and plainly making this request.

10. Also, we would like to bring to your honor's kind attention that even if the proceedings are before the Ld. CIT(A)-III, Bhopal and not under Faceless mechanism, the process of service of notice of hearing remains the same i.e. through service through Mails. Since the assessee was not served with the last 2 notices issued after a long-time gap before making ex-parte appeal orders, no fault of the assessee can be attributed. Even the appeal orders were issued on wrong mail id's which proves the genuineness of the assessee case.

In view of the above-mentioned facts and circumstances of the case, the assessee humbly submits before the Hon'ble bench that the detailed and voluminous submissions need to be confronted with the Ld. AO as very high pitched and erroneous additions have been made. It would be travesty of justice if the impugned assessment order and consequent appeal order are sustained and would encourage Income tax department to pass such injudicious assessment orders in the future. The assessee has given all the submissions of the case and is merely requesting a fair assessment and has already assured full cooperation and compliance in any future proceedings."

8. Ld. AR re-iterated the above submission orally also. The crux of Ld. AR's submission is such that the CIT(A) has passed impugned orders ex-parte to assessee with the reasoning that the assessee did not respond on various dates of hearing fixed by him and therefore the assessee is not keen to pursue appeals and co-operate in finalisation of appeals before him. But this observation was CIT(A) is not correct. Referring to Para 1.1 of CIT(A)'s

orders (re-produced above), Ld. AR submitted that the CIT(A) fixed initial hearings in the calendar year 2021 / 2022 on 27.04.2021, 20.07.2021, 14.09.2021, 08.11.2021, 06.12.2021, 01.02.2022 and 12.04.2022 but that was Covid-19 period which disturbed life of everyone worldwide. That the assessments made by AO were high-pitched and the assessee needed a lot of preparation and collection of documents during that Covid period, hence the assessee sought adjournments from CIT(A) on some occasions. Ld. AR filed a copy of letter dated 20.07.2021 filed by assessee to CIT(A) seeking adjournment for the reason of preparation of case due to Covid-19; copy of assessee's letter is scanned and re-produced below for an immediate reference:

Gmail

Mahesh Agrawal <maheshagrawal216@gmail.com>

Adjournment Request in the case of Om Shanti Motors

Mahesh Agrawal <maheshagrawal216@gmail.com>
To: bhopal.cit.apl3@incometax.gov.in

Tue, Jul 20, 2021 at 12:56 PM

**BEFORE THE HON'BLE COMMISSIONER OF INCOME TAX (APPEALS)-III,
BHOPAL**

Reg: Om Shanti Motors (PAN- AABFO4504C),
86, Cholla Road, Bhopal(M.P.),
Assessment Year: 2009-10, 2010-11, 2012-13, 2013-14, 2014-15 & 2015-16

Appeal No.: CIT (A), Bhopal - 3 / 10031/2008-09, 10035/2009-10, 10040/2011-12,
10069/2012-13, 10177/ 2013-14 & 10684/2014-15

Sub: Request for adjournment

MAY IT PLEASE YOUR HONOUR

In response to above captioned notices, it is humbly submitted that Your Honour had fixed the date of hearing on today's date i.e. 20.07.2021. In this regard it is humbly submitted that necessary preparation of the case could not be done due to the covid pandemic situation.

Therefore, we most humbly request Your Honour to kindly adjourn the hearing of above referred appeals to a future date after giving sufficient time for preparation of the same.

Inconvenience caused is highly regretted.

Thanking You,


Submitted by,

(A.R)

With Regards
Mahesh Agrawal & Co.

(H)
True Copy

9. Carrying further, Ld. AR submitted that post-Covid, the CIT(A) has stated to have fixed hearings in the calendar year 2024 on 27.02.2024 and 04.06.2024, after a gap of about 2 years, but the notices of those hearings were served on e-mail ids: karishmabhargava@gmail.com/
sfvaishali@yahoo.co.in which did not belong to assessee-firm or any of its partners and was never specified in any of the Form No. 35 (Appeal Memo) filed by assessee to CIT(A). Ld. AR filed copies of the notices dated 19.02.2024 & 27.05.2024 claiming that the hearings on 27.02.2024 & 04.06.2024 were fixed by CIT(A) through these notices. One notice is scanned and re-produced below for an immediate reference:

 e-Filing Anywhere Anytime
Income Tax Department, Government of India

Call Us English A A+ |

Dashboard e-File Authorised Partners Services AIS Pending Actions Grievances Help

Dashboard > Pending Actions > e-Proceedings > View Notices > Detailed Notices

Notice/Letter pdf

Notice/ Communication Reference ID 100080081570	Date -	From BHOPAL.CIT.APL3@INCOME
To karishmabhargava@ymail.com	CC sfl_vaihall@yahoo.co.in	Subject [ITBA]-Hearing Notice(Set As

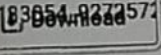
Dear OM SHANTI MOTORS,

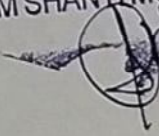
Please find attached the Notice u/s 250 for PAN AABFO4504C and A.Y. 2009-10

Please quote your PAN in all future correspondences.

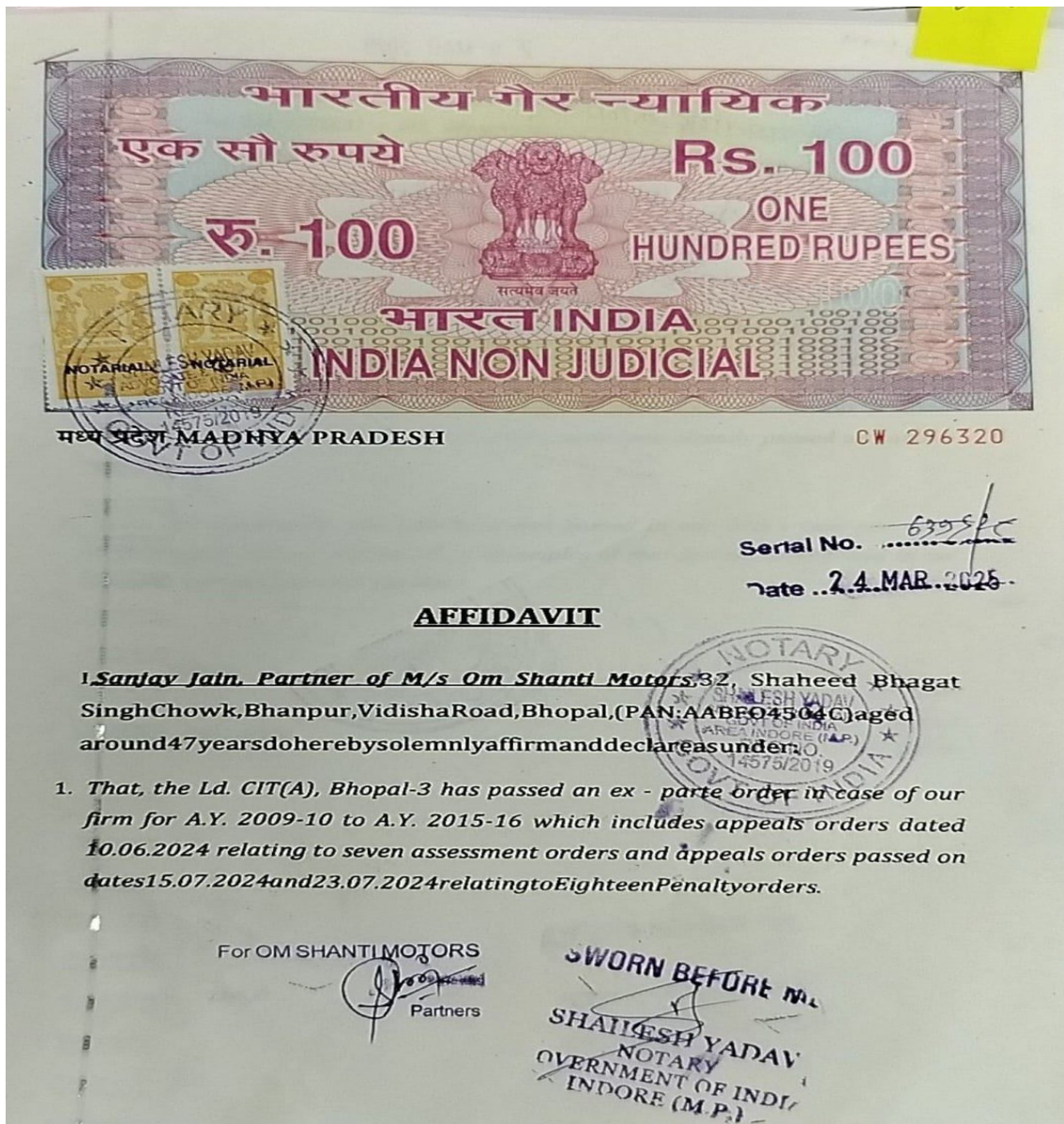
Note :

- This communication is computer generated and may not contain signature.
- This communication may be treated as compliant with the requirements of Income Tax Rules 127 and 127A.
- Signed copy may be sent separately if not already digitally signed.
- Please quote your PAN in all communications.
- Income Tax Department does not seek any taxpayer information like user name, password, details of ATM, credit cards, etc. Taxpayers are advised not to part with such information on the basis of emails.

7000000070183054_92725727_2024_APL_7000000070183054_92725727_2024_APL_AABFO4504C_Hearing
Notice(Set Aside)_1065149957(1)_27052024.pdf 

For OM SHANTI MOTORS 

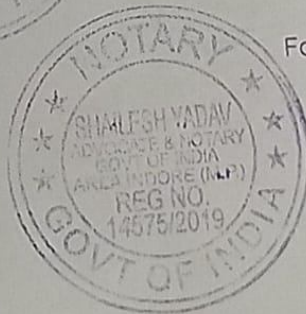
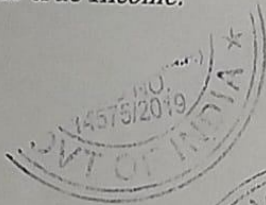
10. Ld. AR also filed an affidavit of assessee's partner Shri Sanjay Jain making solemnised averments that the email ids: karishmabhargava@gmail.com / sfvaishali@yahoo.co.in do not pertain to assessee-firm or any of its partners and these email ids were not mentioned in Form No. 35 at the time of filing of appeals. The affidavit filed by assessee is scanned and re-produced below:



2. That, during the appeal proceedings, last two notices issued in calendar year 2024 by the Ld. CIT(A) – III, Bhopal and even all the appeal orders in the aforesaid cases were served on mail bearing Mail id: karishmabhargava@ymail.com & sfl_vaishali@yahoo.co.in. Both the mail id's do not pertain to our firm or any of its partners. Also, these E-mail ID's were not mentioned in Form-35 at the time of filling of appeals.
3. That, in support of our contention, we are filing before the Hon'ble Bench, the snapshot of the IT portal (On sample basis) mentioning the mail id on which the notices were issued and they do not pertain to us.
4. That, when our counsel Suo moto proceeded to upload the submission, it came to their knowledge that the appeal orders have been already passed on earlier dates.
5. That, the assessment and penalty orders passed in our firm's case are very high pitched and are not based on Principles of real income theory and in no manner justifies our true Income.

Place: - Indore

Date 24/03/2025




Deponent
For OM SHANTI MOTORS
(Sanjay Jain)
Partners

SWORN BEFORE ME
(Signature)
SHAIKESH YADAV
NOTARY
GOVERNMENT OF INDIA
INDORE (M.P.)

11. Ld. AR also submitted copies of certain notices issued by CIT(A) in the year 2021 / 2022 to show that initially the CIT(A) issued notices to correct email ids of assessee: [rameshchandrabaheti@yahoo.com/](mailto:rameshchandrabaheti@yahoo.com) ssplbhopal@gmail.com but surprising the CIT(A) issued notices in the year 2024 to wrong email ids. One notice issued by CIT(A) to correct email id of assessee is re-produced below for reference:

NOTICE ISSUED ON CORRECT MAIL ID FOR QUANTUM APPEAL AY 2009-10

 **e-Filing** Anywhere Anytime
Income Tax Department, Government of India

Call Us | English | A⁺ A A⁺ | OM SHANTI MOTOR Firm | Session Time 13:46

Dashboard | e-File | Authorised Partners | Services | AIS | Pending Actions | Grievances | Help

Dashboard > Pending Actions > e-Proceedings > View Notices > Detailed Notices

Notice/Letter pdf

Notice/ Communication Reference ID 100040589194	Date -	From BHOPAL.CIT.APL3@INCOMETAX.GOV.IN
To rameshchandrabheti@yahoo.com	CC sspihbopal@gmail.com, ranjanbheti@gmail.com, deepak.1011181@gmail.com, OM SHANTI MOTORS @ REDIFFM	Subject [REDACTED]


Dear OM SHANTI MOTORS,


Please find attached the Notice u/s 250 for PAN AABF04504C and A.Y. 2009-10.

Please quote your PAN in all future correspondences.

Note :

- This communication is computer generated and may not contain signature.
- This communication may be treated as compliant with the requirements of Income Tax Rules 127 and 127A.
- Signed copy may be sent separately if not already digitally signed.
- Please quote your PAN in all communications.
- Income Tax Department does not seek any taxpayer information like user name, password, details of ATM, credit cards, etc. Taxpayers are advised not to part with such information on the basis of emails.

 AABF04504C_Hearing Notice(Set Aside)_1037261107(1)_26112021.pdf Download


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12. With these submissions, Ld. AR contended that the assessee was not able to re-present its cases/file details and documents before CIT(A) initially due to Covid-19 and later due to non-service of notices of hearings on correct email id supplied by assessee. Therefore, the impugned ex-parte orders have been passed by CIT(A) without giving reasonable opportunities to assessee and in the situation the assessee ought to be given one more opportunity to make representation before lower-authorities.

13. Ld. AR went ahead to submit that this is a search case and even before AO, the assessee was not able to file complete details/documents which has led the AO to assess aggregate income of seven assessment-years at Rs. 19,14,18,831/- which is approx. 18 times of the aggregate returned income of Rs. 1,05,86,614/-. Therefore, the assessments made by AO are grossly high-pitched. He submitted that assessee has made full preparation and collected/complied all details/documents necessary for representation. The assessee has filed voluminous papers of more than 5,000 Pages in the form of multiple Paper-Books before ITAT to show the level of preparation made by assessee. Ld. AR submitted that since there is a need of in-depth verification of these voluminous papers, it would be most appropriate to restore these matters at the level of AO. This would enable the AO to make a proper assessment and recover legitimate tax from assessee.

14. Per contra, Ld. DR for revenue filed following Written-Submission on an earlier date of hearing:

“ISSUE UNDER APPEAL:

The present appeals have been preferred by the assessee against the order passed by the Learned Commissioner of Income Tax (Appeals) [CIT(A)] in respect of the quantum additions as well as penalty proceedings under Sections 271(1)(c), 271AAB, 271D, and 271E of the Income Tax Act, 1961 ("the Act").

At the very outset, it is submitted that the assessee has remained perennially non-compliant at every stage of the proceedings - before the Assessing Officer (AO), before the CIT(A), and even before this Hon'ble Tribunal when the matter was previously remanded back to the CIT(A). The conduct of the assessee exhibits utter disregard for the process of law.

It is further submitted that this is a search case involving substantial tax implications, where entire proceedings have been conducted physically, not under the faceless regime. Thus, any argument that the assessee was unaware of the ongoing proceedings is wholly untenable and misleading. In a high quantum tax case, where the assessee is well aware of its right to appeal, it is only reasonable to expect that the assessee would also comply with statutory requirements. Instead, the assessee has consistently ignored the legal process, causing unnecessary delays and obstructing tax administration.

BRIEF FACTS OF THE CASE

1.01 The assessee is a partnership firm engaged in the business of automobile dealership, operating a service center, and selling spare parts.

1.02 A search and seizure operation under Section 132(1) was conducted on the residential and business premises of the assessee on 12-08-2014. Pursuant to the search, the following assessments were completed:

<i>Assessment Year</i>	<i>Mode of Assessment</i>
<i>2009-10</i>	<i>Assessed under Section 147</i>
<i>2010-11 to A.Y. 2014-15</i>	<i>Assessed under Section 153A read with Section 143(3)</i>
<i>2015-16</i>	<i>Assessed under Section 143(3)</i>

Chronology of Proceedings

<i>Event</i>	<i>Date</i>
<i>Date of Original Assessment</i>	<i>09-08-2017</i>
<i>Date of CIT(A) Order</i>	<i>13-03-2018</i>
<i>Date of ITAT Second Appeal Order</i>	<i>24-10-2019</i>

1.03 The instant appeals pertain to quantum additions as well as penalty proceedings under Sections 271(1)(c), 271AAB, 271D, and 271E.

2.00 REPEATED NON-COMPLIANCE BY THE ASSESSEE:

2.01 Non-Compliance at Every Stage of Proceedings

It is an undisputed fact that the assessee has been consistently non-compliant, right from the assessment stage up to the present appeal before this Hon'ble Tribunal:

- *Before the AO: No meaningful compliance or explanations were provided during the assessment proceedings.*
- *Before the CIT(A) (First Round): The assessee failed to participate in the appellate proceedings, leading to dismissal of the appeal.*
- *Before the ITAT (First Round): When the matter was remanded back to the CIT(A), the Hon'ble Tribunal exercised judicial leniency by granting another opportunity to the assessee.*
- *Before the CIT(A) (Set-Aside Proceedings): Despite the Hon'ble Tribunal granting a fresh opportunity, the assessee again remained non-compliant, even after being given as many as eight opportunities.*

2.02 Physical Proceedings, Not Faceless - No Excuse for Non-Compliance

This is a search case where proceedings were conducted physically. Thus, the assessee cannot claim ignorance or lack of communication as an excuse for non-compliance. The assessee was not only aware of the pendency of the proceedings but has willfully chosen not to cooperate.

2.03 Second Round of Proceedings Before ITAT-No Justification for Further Leniency

- *The search took place in 2014, and almost 11 years have elapsed, yet the assessee continues to adopt dilatory tactics.*
- *This is now the second round of litigation before this Hon'ble Tribunal, and the assessee once again pleads for a remand, citing its own non-compliance.*
- *Such conduct is a clear abuse of the judicial process, and further remand should not be granted in light of the assessee's repeated disregard for legal proceedings.*

2.04 Precedential Impact - Detrimental Consequences of a Remand

If this Hon'ble Tribunal were to again remand this matter back to the CIT(A) for a second time, it would not set a good precedent whereby a non-compliant assessee could indefinitely delay tax proceedings through repeated defaults.

Such a decision would encourage deliberate non-cooperation, weaken the effectiveness of search assessments, and diminish the sanctity of judicial process. In my humble view, it is imperative to send a strong message that an assessee who does not respect the legal framework cannot be rewarded with endless opportunities.

3.00 PRAYER: NO REMAND SHOULD BE GRANTED:

3.01 In view of the discussion made in preceding paras and also considering the assessee's continued disregard for legal proceedings, it is very humbly submitted that no further remand should be granted. Even if there exist high-pitched assessments or mistakes apparent on record, the assessee's consistent failure to comply should weigh heavily against any relief being granted.

3.02 Without Prejudice to the above, if this Hon'ble Tribunal still decides to grant a remand, it is very humbly requested that strict conditions may kindly be imposed upon the assessee to ensure compliance, namely:

- i) Heavy costs may please be imposed upon the assessee as a consequence of its prolonged non-compliance and wastage of judicial resources.*
- ii) The assessee should be directed to deposit a suitable percentage of the outstanding tax demand before being allowed any relief.*
- iii) The assessee should be mandated to comply with all further proceedings in a time-bound manner.*

Thanking you

Respectfully submitted”

15. The crux of Ld. DR's Written-Submission is two-fold, namely (i) the assessee has remained non-compliant at every stage of the proceeding – before the AO, before CIT(A) in first-round, before ITAT in first round and before CIT(A) in set aside proceedings despite as many as eight opportunities given by CIT(A) in set aside proceedings. Therefore, the assessee does not deserve leniency, and (ii) without prejudice to this, if the Bench decides to grant a remand, stricter condition must be imposed on assessee to ensure compliance by assessee.

16. Today, during hearing, though the Ld. DR relied heavily upon his Written-Submission yet expressed that the assessments seem to be high pitched and taking into account the submission of Ld. AR and level of preparation made by assessee, if the Bench decides to grant a remand, it would be appropriate to restore these matters at the level of AO instead of CIT(A).

17. We have considered the rival submissions of both sides and carefully perused the case-record including the orders passed by lower-authorities

as also the documents filed by assessee in the form of Paper-Books. This is 2nd round of proceeding before ITAT. In 1st round, the ITAT passed order dated 24.10.2019 which is re-produced in earlier part of this order. The ITAT remanded/set aside matter to CIT(A) for adjudication afresh on merit after giving reasonable opportunities to assessee. Therefore, we are required to look into the limited issue as to what happened in set aside proceedings conducted by CIT(A). Ld. AR for assessee has successfully demonstrated that the CIT(A) has, while conducting set aside proceeding in pursuance of ITAT's order, fixed certain hearings during Covid-19 pandemic period. It is an admitted fact that the life of everyone was disturbed badly during Covid pandemic. Since it is a search case, the assessee needed more time for preparation of cases and therefore filed adjournment applications to CIT(A). One sample adjournment-application has also been filed by Ld. AR which we have re-produced in earlier part of this order. Even the order of CIT(A) not only acknowledges the factum of filing of adjournment applications by assessee on some occasions but also the actual grant of adjournments by CIT(A). Thereafter, after a gap of about 2 years, the CIT(A) issued two notices in the year 2024 in *post-covid period* but the Ld. AR has filed copies of notices to demonstrate that those notices were issued to wrong email ids. An affidavit of assessee-firm's partner is also filed to the effect that the email ids to which those notices were given, do not belong to assessee-firm or any of its partners and not even mentioned in Form No. 35. Thus, it is very clear that the assessee has not

been given reasonable opportunities of hearing as directed in ITAT's order. Furthermore, the assessee's willingness to represent cases before lower-authority is discernible from the fact that more than 5,000 papers have been filed before ITAT to show the preparation made. Thus, considering entire conspectus of case and also to impart substantial justice, it would be fair to give one more opportunity to assessee. Since the learned Representatives of both sides are *ad idem* that in the event of remand of these matters, it would be more appropriate to restore at the level of AO, we are inclined to remand these matters to AO for adjudication afresh after giving necessary opportunities of hearings to assessee and following the procedure of law. This remand is at the risk and responsibility of assessee. We specifically direct the assessee to stay diligent in attending hearings as may be fixed by AO and make adequate representation to the queries of AO without seeking unnecessary adjournments failing which the AO shall be at liberty to take any view in accordance with law. Accordingly, these appeals can be said to be allowed for statistical purposes.

Penalty-appeals - ITA No. 608 to 625/Ind/2024:

18. This is 1st round of 'penalty-appeals' before ITAT. However, the status of these appeals is same as of 'quantum-appeals' to the extent that the CIT(A) has fixed earlier hearings during Covid-2019 period and served notices of later hearings to wrong email ids not belonging to assessee and not even provided by assessee in Form No. 35. Further, the penalties

imposed by AO have emanated from various documents/issues of very same search proceedings whose 'quantum-appeals' have been remanded to the file of AO for afresh adjudication in earlier part of this order. Therefore, as agreed by learned Representatives of both sides, we remand these 'penalty-matters' also to the file of AO in the very same terms as the 'quantum-appeals' remanded in earlier part of this order. This way, these appeals are also allowed for statistical purposes.

19. Resultantly, all these appeals are allowed for statistical purpose.

Order pronounced in open court on 04/04/2025
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Sd/-
(PARESH M. JOSHI)
JUDICIAL MEMBER

Sd/-
(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक/ Dated : 04/04/2025

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