

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

**BEFORE SHRI RAJPAL YADAV, HON'BLE VICE PRESIDENT AND
DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER**

**ITA No. 600/Jodh/2024
Assessment Year 2012-13**

Laxmi Narayan Pareek, Kem Road, Bikaner – 334001. PAN No. ADYPP8783G		ACIT, Circle-1, Bikaner.
Assessee by	Shri Rajendra Jain, Advocate.	
Revenue by	Shri Karni Dan, Addl. CIT-DR.	
Date of Hearing	29.04.2025.	
Date of Pronouncement	27 .05 .2025.	

ORDER

PER DR. MITHA LAL MEENA, A.M.:

This Appeal by the assessee is directed against the order of National Faceless Appeal Central, Delhi (hereinafter referred to as “NFAC/CIT(A)”) dated 08.09.2023 in respect of assessment year 2012-13 challenging therein ex-parte order passed by Ld. CIT(A) for Non-prosecution in violation of principles of natural justice.

2. We have heard both the sides and perused the material available on record. We find that ld. CIT(A) has rejected the appeal of the assessee by stating that appellant was not interested in prosecuting the appeal, as there was no response to the notice of hearings from the assessee. However, Ld. CIT(A) has not mentioned the facts of the date of service of these notices on the assessee issued u/s 250 of the Act, to enable the assessee to present his submissions in defence of



the claims made in the grounds of appeal. He has placed reliance on high Court Judgement with discussing the applicability of said judgement to the present case where the factum of service of notice of hearing on the assessee is neither mentioned nor inferred from the record that certainly tantamount to violation of principles of natural justice and debarred the assessee an adequate opportunity to argue it case before the CIT (A) on merits.

3. In our view, the Ld. CIT (A) ought to have adjudicated the appeal on merits after granting adequate opportunity by proper service of notice on the assessee and He deemed to have disproved the claim of the assessee by rebutting its contention with support of corroborative documentary evidence on record. 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.”

4. Considering the principles of natural justice, it would be appropriate to restore the matter back to the file of the Id. CIT(A) to adjudicate the appeal of the assessee afresh by addressing the grounds of appeal on merit of the case after

granting adequate opportunity of being heard to the assessee and considering the written submissions and documentary evidences filed on record and may be filed in the *de novo* appellate proceedings. In the case, the CIT (A) is not satisfied with the reply of the assessee, and he intends to take any adverse view against the appellant-assessee, may be allowed an opportunity to rebut.

5. Accordingly, the impugned order is set aside and the matter is remanded back to the file of the Id. CIT(A)/NFAC to adjudicate the issue *de novo* in accordance with law.

6. In the result, this appeal is allowed for statistical purposes.

Order pronounced on..27.../05...../2025 in the open Court.

Sd

(RAJPAL YADAV)
VICE PRESIDENT

Sd

(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER

Dated : 27../05./2025

Copies to :

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

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