

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.532/Ind/2024
Assessment Year: 2012-13

Tushar Enterprises, MF-23, Mansarovar Complex, Bhopal (Assessee/Appellant)	<u>बनाम/</u> Vs.	ACIT, 1(1) Bhopal (Revenue/Respondent)
PAN: AAFT6056B		
Assessee by	Shri Soumya Bumb, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	25.06.2025	
Date of Pronouncement	26.06.2025	

आदेश / O R D E R

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

Feeling aggrieved by order of first-appeal dated 14.05.2024 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 19.12.2019 passed by learned DCIT/ACIT-1(1), Bhopal ["AO"] u/s 143(3) r.w.s. 147 of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2012-13, the assessee has filed this appeal on the grounds mentioned in Appeal Memo (Form No. 36).

2. Ld. AR for assessee submits that the assessee-firm filed its first appeal to CIT(A) and in Form No. 35, the email address: snema1969@rediffmail.com belonging to its counsel was mentioned. That the CIT(A) issued notices of hearing to this email id supplied by assessee in Form No. 35 and the assessee initially sought adjournments from CIT(A) which the CIT(A) granted. Thereafter, the CIT(A) issued notice dated 09.04.2024 fixing hearing on 16.04.2024 and in response to same, the assessee e-filed submission on 17.04.2024 informing thus: *"I have changed my counsel, kindly give me 15 days' time for final submission"*. In support of this, Ld. AR has placed on record the acknowledgment downloaded from e-filing website of department at Page 2 of Paper-Book. Thereafter, the CIT(A) issued notice dated 30.04.2024 fixing hearing on 06.05.2024 to email id: tushar1008@rediffmail.com/gmoffice02@gmail.com/pSERVICE87@gmail.com but that notice/email could not reach to the knowledge of assessee and therefore the hearing could not be attended which has led the CIT(A) to pass ex-parte order. Ld. AR submitted that the assessee intended to file additional evidences to CIT(A) as mentioned in Column 12 and 12.1 of Form No. 35 but those evidences could not be filed (Para 7 of impugned order) due to adjournments taken, change in counsel and non-receipt of email of final notice of hearing. He submitted that the CIT(A) has merely upheld the AO's order but the assessee has raised substantial grounds in first appeal which need an apt adjudication by CIT(A). Ld. AR submitted that looking to the facts of case and the meritorious grounds raised by assessee in first-appeal

and in the interest of justice, one more opportunity needs to be given to assessee to represent its case before CIT(A). Ld. AR acknowledges that the assessee is ready and willing to make a proper representation before CIT(A).

3. Ld. DR for revenue agrees with the prayer of Ld. AR but makes a request to direct the assessee to represent its case before CIT(A) and do not seek unnecessary adjournments.

4. Considering above submissions of parties and having regard to the principle of natural justice and fair play, we 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 uninfluenced by his earlier order. The assessee is also directed to remain vigilant and 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 26/06/2025

Sd/-

(PARESH M. JOSHI)
JUDICIAL MEMBER
Indore

दिनांक /Dated : 26/06/2025
Patel/Sr. PS

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

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