

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

**BEFORE SHRI LALIET KUMAR, HON'BLE JUDICIAL MEMBER AND  
DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER**

ITA No. 722/Jodh/2024 (A.Y. 2013-14)

ITA No. 723/Jodh/2024 (A.Y. 2013-14)

ITA No. 724/Jodh/2024 (A.Y. 2013-14)

Chainaram V/p Doli Tehsil Luni, Jodhpur – 342001. PAN No BIKPR9270C		ITO, Ward-3(1), Jodhpur.
Assessee by	Shri Anil Bhansali, Advocate.	
Revenue by	Shri Karni Dan, Addl. CIT (Sr. D.R.)	
Date of Hearing	21.05.2025.	
Date of Pronouncement	26.06.2025. 17	

**ORDER**

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

The Captioned appeals are filed by the assesseees against the separate orders even dated 30/07/2024 passed by the Ld. National Faceless Appeal Centre (NFAC/ CIT (A), in respect of Assessment Year 2013-14, challenging therein the orders of the authorities below passed *ex parte* qua the assessee in violation of principles of natural justice.

2. Since there are common issues inter-related to each other involved, in all these appeals regarding violation of natural justice and hence these three appeal



were heard together and adjudicated by this consolidated order for brevity. The facts are discussed from ITA No. 723/Jodh/2024 as a lead case.

3. At the outset, the Ld. Counsel submitted that the Ld. CIT(A)/NFAC has erred in confirming the addition without going into merits of the case in utter ignorance of material on record and the provisions of Income Tax Act 1961. The Ld. AR argued that the CIT appeal has ignored the submissions of the assessee and relied upon absolutely extraneous material while confirming the addition made by the AO in an *ex parte* assessment order passed u/s 147/144 of the act, in violation of principles of Natural Justice. He further submitted that the worthy CIT(A) has grossly erred in confirming the addition of Rs. 2,25,51,340/- without appreciating the facts on merits of the case that disputed addition has been made without any tangible material in possession of the AO, invoking the extended period of limitation under the provisions of I.T. Act for reopening of the assessment. The AR contended that the AO has made the addition and the NFAC uphold the said addition assuming the registration document as purchase value of land whereas the same was registration of gift deed (Bakshishnama) by father to his son. Thus, the order suffers from a patent, stark perversity, reckless and callous approach of non-application of mind by the assessing officer. The AR has requested to restore the matter back to the file of the assessing officer to pass the assessment order *denovo* after granting adequate opportunity of being



heard and considering the documentary evidence filed on record and to be filed during the course of reassessment proceedings. Accordingly, he pleaded that the matter may be remanded back to the AO to pass *de novo* assessment after granting adequate opportunity of being heard. In support, he placed reliance on Judgement of Delhi High Court in the case of "Bharat Aluminium Company Ltd. vs. Union of India", [2022] 134 taxmann.com 187 (Delhi) where it was observed that Assessee would have a vested right to personal hearing in faceless assessment proceeding under section 144B and granting of personal hearing would not be discretionary as per individual facts of each case.

4. Per contra, the Ld. DR although supported the impugned order, however, he has no objection to the request of the appellant in view of principles of natural justice.

5. Heard rival contentions, perused the material on record, impugned order, written submission and case law cited before us. Admittedly, the revenue authorities have passed orders ex parte qua the assessee. The Ld. AR argued that the worthy CIT(A) decided the case ex parte without granting opportunity of the hearing against the ex parte assessment order passed under section 147/144 of the act and that while deciding the case ex-parte, the Ld. CIT(A) has not appreciated the facts of the case and arbitrary confirmed the assessment order



passed u/s 144 r.w.s. 147 of the I.T. Act. It is seen that neither the AO nor the Ld.

CIT(A) has addressed the relevant issue on merits of the case that the assessee explained that the disputed land was transferred by way of registration of gift deed (Bakshishnama) by father to his son. We understand that the assessee has good arguable case provided granted adequate opportunity by the AO to enable the assessee to establish its claims regarding the gift deed transaction exempted under the provisions of statute.

5. In view of the principles of natural justice, the authorities below ought to have disproved the claim of the assessee by way of rebutting its contention with support of corroborative documentary evidence on record after granting an adequate opportunity of being heard. 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."*

8. In view of the principles of natural justice, we consider it deem fit to restore back the matter to the file of the Ld. AO to pass *de novo* assessment after considering the written submission and evidences filed on record and may be



filed before him during the fresh Assessment Proceedings after granting sufficient opportunity of being heard to the assessee with a direction that the AO shall issue a Show Cause Notice and thereafter pass a reasoned order in accordance with law.

9. Accordingly, Assessment order is set aside and matter is remanded back to the file of the assessing officer to pass *de novo* assessment as per law.

10. Since, the matter in quantum appeal is restored to the AO for afresh adjudication on merits of the case and therefore, the issue of consequential penalties levied u/s 271(1)(c) and 271(1)(b) raised in ITA Nos. 722 and 724/Jodh/2024 respectively would not survive. Accordingly, the penalties levied u/s 271(1)(c) and 271(1)(b) in In ITA Nos. 722 and 724/Jodh/2024 are deleted.

11. In the result, the captioned appeals of the assesses in ITA Nos. 723/Jodh/2024 is allowed for statistical purposes and the appeals in ITA Nos. 722 and 724/Jodh/2024 are allowed.

*Order pronounced on ~~17~~/06/2025 in the open court.*

- Sd/-

(LALIET KUMAR)  
JUDICIAL MEMBER

- Sd/-

(DR. MITHA LAL MEENA)  
ACCOUNTANT MEMBER

Dated : ~~17~~/06/2025

ITA No. 722/Jodh/2024 (A.Y. 2013-14)

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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.