

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.929/Ind/2024
Assessment Year: 2011-12

Sagitarious Securities & Finance Limited, 54 R.N.T. Marg, 4 th Floor, Dawa Bazar, Indore	<u>बनाम/</u> <u>Vs.</u>	Income Tax Officer-5(1), Indore
(Assessee/Appellant)		(Revenue/Respondent)
PAN: AAFCS9291R		
Assessee by	Shri Venus Rawka, AR	
Revenue by	Shri Ashish Porwal, Sr.DR	
Date of Hearing	21.07.2025	
Date of Pronouncement	22.07.2025	

आदेश / O R D E R

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

Feeling aggrieved by order of first-appeal dated 23.10.2024 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 26.12.2018 passed by learned ITO-5(1), Indore ["AO"] u/s 143(3) r.w.s. 147 of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2011-12, the assessee has filed this appeal on the grounds mentioned in Appeal Memo (Form No. 36).

2. Ld. AR for assessee drew us to following paras of the impugned order of first-appeal passed by CIT(A):

"4. Aggrieved by the assessment order passed by the A.O. u/s 147 r.w.s. 143(3) of the Act, the appellant carried the matter in appeal before the CIT(A). Coming to the present proceedings, the hearings were fixed on various dates. The notices of hearing were sent through online system/email and duly served upon the assessee."

3. Referring to same, Ld. AR submitted that the CIT(A), while conducting first-appeal, has served notices of hearing on e-mail of assessee although the assessee has specifically mentioned "No" in the column provided in Form No. 35 asking "*Whether notices/communication may be sent on email?*". Therefore, the assessee demanded physical hearing from CIT(A) but against the demand of assessee, the CIT(A) issued all notices through e-mail as mentioned by CIT(A) himself in Para 4 of his order re-produced above. Hence, in absence of service through physical mode as per demand of assessee in Form No. 35, the assessee could not attend hearings fixed by CIT(A), which has led to the passing of *ex-parte* order by CIT(A). Ld. AR acknowledges that the assessee is ready and willing to make a proper representation before CIT(A) if an opportunity is given and prays that the present matter should be remanded to the file of CIT(A) for a proper adjudication of the grounds/issues raised by assessee in first-appeal.

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

5. Considering above submissions of parties and having regard to the principle of natural justice, 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. 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.

6. Resultantly, this appeal is allowed for statistical purpose.

Order pronounced in open court on 22/07/2025

Sd/-

(PARESH M. JOSHI)
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 22/07/2025

Dev/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