

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

BEFORE DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER
AND DR. S. SEETHALAKSHMI, HON'BLE JUDICIAL MEMBER

ITA No. 374/Jodh/2023
Assessment Year (2017-18)

Sampat Devi Agarwal 10 Yasqua, Tsr Near Tyagi Vatika, Moti Bhawan, Jail Road, Bikaner – 334001. PAN No. ACDPA9525D		ACIT, Circle-1, Bikaner.
Assessee by	Shri Rajendra Jain, Advocate	
Revenue by	Dr. Ashwini Hosmani, Addl. CIT-DR	
Date of Hearing	10.11.2025.	
Date of Pronouncement	25. 11 .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 08.08.2023 in respect of assessment year 2017-18 challenging therein ex-parte order passed by Ld. CIT(A) for Non-compliances of notices in violation of principles of natural justice.



2. Having 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 observing that *“the undersigned is left with no option but to decide the case on the basis of material available on record. Bear perusal of the facts shows that the appellant has not pursued the appeal despite being granted several opportunities. There has been total non compliance to all the notices issued. So, his contention raised vide grounds of appeal and the statement of facts cannot be taken on face value. Therefore, the above contentions of the appellant are without merit and are hereby rejected”*.
3. The Ld. CIT(A) has not mentioned the facts of the date of service of notices issued u/s 250 of the Act, on the assessee, so as to enable the assessee to present his submissions in defence of the claims made in the grounds of appeal. In the present case, 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.
4. 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.”

5. 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.

6. 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.



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

Order pronounced on 25/11/2025 in the open Court.

- Sd -

**(DR. S. SEETHALAKSHMI)
JUDICIAL MEMBER**

- Sd -

**(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER**

Dated : 25/11/2025

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.