

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL,
JAIPUR BENCHES (SMC), JAIPUR

श्री भागचंद, लेखा सदस्य, के समक्ष
BEFORE: SHRI BHAGCHAND, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. 1135/JP/2016
निर्धारण वर्ष/Assessment Year : 2006-07

Rekha Ram Jat, Village & Post Nimeda, Jaipur.	बनाम Vs.	Income Tax Officer, Ward 7(2), Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AURPR 3768 F		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri G.M. Mehta (Adv.)
राजस्व की ओर से / Revenue by : Shri Raj Mehra

सुनवाई की तारीख / Date of Hearing : 27/02/2017
उदघोषणा की तारीख / Date of Pronouncement : 27/02/2017

आदेश / ORDER

PER: BHAGCHAND, A.M.

This is an appeal filed by the assessee against the order dated 13/10/2016 passed by the Id. CIT(A)-35, New Delhi/Camp office at Jaipur for the A.Y. 2006-07. The only issue involved in this appeal is levying the penalty of Rs. 1.50 lacs made U/s 271(1)(c) of the Income Tax Act, 1961 (hereinafter referred as the Act) and confirming the same by the Id. CIT(A) by passing an ex parte order on 13/10/2016.

2. Following facts can be noted from the records that the assessee is an agriculturist and lives in a village. The assessment was completed by the Assessing Officer U/s 144 of the Act vide order dated 22/12/2008, in which the Assessing Officer assessed total undisclosed income of Rs. 60.50 lacs, for which, the penalty U/s 271(1)(c) of the Act was initiated. Thereafter, in the appeal, the Id. CIT(A) had reduced the addition to Rs. 8,02,942/-, which was upheld by the Hon'ble ITAT vide order dated 20/04/2012 passed in ITA No. 525/JP/2011. It is pertinent to note that this income was to be assessed under the head 'capital gain'. The penalty of Rs. 1.50 lacs was levied for concealing the particulars of capital gain income to the tune of Rs. 8,02,942/-. However, from the order of the Id. CIT(A), it is noticed that he has affirmed the levy of penalty for an ex parte order.

3. The assessee has challenged this ex parte order of Id. CIT(A) before this Bench.

4. After hearing of both the sides and taking into all aspects of the case, I am of the considered view that the assessee deserves a fresh hearing of appeal at the level of Id. CIT(A) for levying of penalty. The addition was made by the Assessing Officer for undisclosed income of Rs. 60.50 lacs deposited in the bank account and penalty was initiated,. But the Id. CIT(A) has been substantially reduced the addition and also head of income in the

quantum appeal. Therefore, in the interest of justice and equity, I restore this issue to the file of the Id. CIT(A) to decide the matter afresh in accordance with law after providing adequate opportunity of being heard to the assessee. Accordingly, this issue is restore to the file of the Id. CIT(A).

5. In the result, the appeal of the assessee is allowed for statistical purposes only.

Order pronounced in the open court on 27/02/2017.

Sd/-
(भागचंद)
(BHAGCHAND)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 27th February, 2017

*Ranjan

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Smt. Rekha Ram Jat, Nimeda, Jaipur.
2. प्रत्यर्थी / The Respondent- The ITO, Ward 7(2), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 1135/JP/2016)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar