

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No. 175/Ind/2023
Assessment Year:2014-15

Real Food Agency Pvt.Ltd., 210, Grain House, 23-24, Murai Mohalla, Chhawani Murai Mohalla Main Road, Indore.	<u>बनाम/</u> Vs.	ITO, Ward 4(2), Indore.
(Assessee / Appellant)		(Revenue / Respondent)
PAN: AADCR8588A		
Assessee by	Shri Soumya Bumb, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	26.10.2023	
Date of Pronouncement	27.10.2023	

आदेश / O R D E R

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

Feeling aggrieved by appeal-order dated 07.02.2023 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"], which in turn arises out of assessment-order dated 28.12.2016 passed by learned ITO-4(2), Indore ["AO"] u/s 143(3) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2014-15, the assessee has filed this appeal.

2. Heard the learned Representatives of both sides and case-records perused.

3. Ld. AR submits that the assessee has not been provided adequate opportunity of being heard at the first appellate stage and the CIT(A) has passed ex-parte order. He drew our attention to Para No. 2 of impugned order and submitted that the first-appeal was initially taken under physical system and subsequently migrated to faceless regime. Then, in Para No. 3 of impugned order, the CIT(A) has noted 8 different dates fixed for hearing. Out of those, 5 hearings were under physical system but no notice of hearing was served upon assessee. Remaining 3 hearings on 13.01.2021, 05.01.2023 and 23.01.2023 were under faceless regime. In the case of hearing fixed for 05.01.2023, the assessee filed an adjournment-application which is mentioned by CIT(A). Thereafter, the CIT(A) fixed only one hearing on 23.01.2023 on which the assessee was unable to make representation. Thus, Ld. AR submitted, the CIT(A) has effectively granted only 2 opportunities out of various dates tabulated in his order. Carrying further to para 4.2 of appeal-order, Ld. AR demonstrated that the CIT(A) has merely confirmed the order passed by AO and thereby upheld the additions but the case of assessee requires an apt adjudication in terms of Section 250(6) of the Income-tax Act, 1961. Ld. AR prayed that the matter may be remanded to the file of Ld. CIT(A) for a proper adjudication on merit after giving due opportunity of hearing to the assessee. Ld. DR does not have any objection but prays to direct the assessee to represent his case before Ld. CIT(A) and

do not seek unnecessary adjournments. In view of this and having regard to the principle of natural justice and fair play, we deem it fit and appropriate to remand this matter back to the file of Ld. CIT(A) for a proper adjudication after giving opportunity of hearing to the assessee, uninfluenced by his earlier decision. We order accordingly. The assessee is also directed to ensure participation in the hearings fixed by Ld. CIT(A) and do not seek unnecessary adjournments.

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

Order pronounced in the open court on 27.10.2023.

Sd/-
(VIJAY PAL RAO)
JUDICIAL MEMBER

sd/-
(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 27.10.2023

CPU/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