

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, "ए", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, 'A', CHANDIGARH

श्री संजय गर्ग, न्यायिक सदस्य एवं श्रीमती अन्नपूर्णा गुप्ता, लेखा सदस्य
BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND
Ms. ANNAPURNA GUPTA, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 492/CHD/2018

निर्धारण वर्ष / Assessment Year : 2007-08

Sh. D.P.Singal, S.R.No. 15, Sector 26, Chandigarh	बनाम	The DCIT, Circle-5, Chandigarh
स्थायी लेखा सं./PAN NO: AFRPS2689R		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Vineet Krishan, Advocate

राजस्व की ओर से/ Revenue by : Smt. Chanderkanta, Sr.DR

सुनवाई की तारीख/Date of Hearing : 15.10.2018

उद्घोषणा की तारीख/Date of Pronouncement : 15.10.2018

आदेश/Order

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 14.2.2017 of the Commissioner of Income Tax (Appeals)-2, Gurgaon [hereinafter referred to as CIT(A)].

2. At the outset, Ld. Counsel for the assessee has invited our attention to the order of the CIT(A) dated 14.2.2017 and submitted the same is an ex-parte order. The Ld. Counsel for the assessee has submitted that though the assessee was represented through his office before the CIT(A), however, the Ld. CIT(A) has wrongly mentioned that no one had come present on behalf of the assessee and, hence, dismissed the appeal of the assessee after observing that there was no infirmity in the order of the Assessing officer in this case. The Ld. Counsel for the assessee has further

invited our attention to the grounds of appeal taken before the Ld. CIT(A) to state that assessee had taken a legal issue regarding the validity of the reopening of the assessment u/s 147 of the Act. However, the Ld. CIT(A), even otherwise, failed to adjudicate upon that issue. That the appeal of the assessee has been decided by the CIT(A) ex-parte by way of a non-speaking order.

3. The Ld. DR, on the other hand, has invited our attention to the chart mentioned in the order stating that the notices were served many a times to the assessee but the assessee failed to appear before the CIT(A) .

4. We have considered the rival submissions and have also gone through the records. It may be noted that though the assessee has claimed that he had responded to the notices issued by the CIT(A) and had presented himself through his counsel before the CIT(A), the Ld. CIT(A), however, has written that despite notices, no one had come present on behalf of the assessee. Even, the fact on the file is that though the Ld. CIT(A) had proceeded to decide the case on merits ex-parte of the assessee, however, he had failed to consider the legal ground regarding the reopening of the assessment and passed a non-speaking order observing that he did not find any infirmity in the order of the Assessing officer.

5. Considering the above submissions of both the Ld. representatives of the parties, in our view, it will be appropriate to remand the matter back to the file of the Ld. CIT(A) to adjudicate it a fresh in accordance with law after giving the assessee an opportunity of hearing. Needless to say that the assessee will present himself before the Ld. CIT(A) as and when called for and will not contribute in unnecessary delay of the hearing of the appeal.

In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the Open Court.

Sd/-

(अन्नपूर्णा गुप्ता / ANNAPURNA GUPTA)

लेखा सदस्य/ Accountant Member

Dated : 15.10.2018

“आर.के.”

Sd/-

(संजय गर्ग / SANJAY GARG)

न्यायिक सदस्य/ Judicial Member

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,

सहायक पंजीकार/ Assistant Registrar