

**आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ “बी”, चण्डीगढ़  
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH  
BENCH ‘B’ CHANDIGARH**

**श्रीमती दिवा सिंह, न्यायिक सदस्य एवं डा. बी.आर.आर. कुमार, लेखा सदस्य  
BEFORE: SMT. DIVA SINGH, JM & Dr. B.R.R.KUMAR, AM**

आयकर अपील सं./ ITA No. 1597/CHD/2017

निर्धारण वर्ष / Assessment Year : 2012-13

Shri Mahesh Kumar, # 15, New Prem Nagar, Mandi GobindgarhS.	बनाम VS	The ITO, Ward-2, Mandi Gobindgarh.
स्थायी लेखा सं./PAN No: AKVVK0963H		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

राजस्व की ओर से/ Revenue by : Shri Sudhir Sehgal

निर्धारिती की ओर से/Assessee by : Shri Manjit Singh, Sr.DR

सुनवाई की तारीख/Date of Hearing : 16.10.2018

उद्घोषणा की तारीख/Date of Pronouncement : 28.11.2018

**आदेश/ORDER**

**PER DIVA SINGH**

The present appeal has been filed by the assessee assailing the correctness of the order dated 12/07/2017 of CIT(A) Patiala pertaining to 2012-13 assessment year on various grounds including ground No. 1 on which the parties were heard. Accordingly for ready reference, we reproduce ground No. 1 raised by the assessee in the present appeal :

*“1. That the worthy Commissioner of Income Tax (Appeals), Patiala has erred in confirming the addition of Rs.49,05,371/- {Rupees Forty Nine Lacs Five Thousands Three Hundred & Seventy One Only} without giving us proper opportunity to represent our case and has not issued the pre-hearing Notices at the appropriate place/the new address, which has been confirmed in Para 4.1 of Impugned Order.*

2. The Ld. AR addressing the impugned order submitted that initially on two dates, assessee had sought an adjournment, thereafter as per record the notice sent to the assessee has come back unserved. Inviting attention to letter dated 01/04/2017 filed on an earlier date before the Bench, it was submitted that the assessee informed the CIT(A) about the change of his address. The Ld. AR also filed amended/revised form No. 36 stating that the assessee had sold the premises 15, Prem Nagar Ludhiana and is living in rented accommodation. Inviting attention to Form No. 36 filed in the present appeal, it was submitted that in column No. 10 the assessee has given the address of his advocate. Accordingly it was his limited prayer that the appeal may be remanded in order to afford the assessee an opportunity

of being heard. The Ld. Sr.DR on considering the record had no objection to the said prayer.

3. We have heard the submissions and perused the material available on record. It is seen that the additions made by the assessing officer in his order passed u/s 144 dated 27/03/2015 were sustained in appeal by the CIT(A) as the assessee failed to put in an appearance. Considering the explanation offered and accepting the oral undertaking given by the Ld. AR, the impugned order is set aside back to the file of the CIT(A) with the direction to pass a speaking order in accordance with law after giving the assessee a reasonable opportunity of being heard. While so directing it is made clear that in the eventuality of abuse of the trust reposed in the assessee, the CIT(A) would be at liberty to pass an order on the basis of material on record. The assessee in its own interests, accordingly is directed to participate fully and fairly in the proceedings before the CIT(A). Said order was pronounced in the open Court at the time of hearing itself.

4. In the result the assessee is allowed for statistical purposes.

Order Pronounced in the Open Court on 28.11. 2018.

Sd/-

Sd/-

( डा. बी.आर.आर. कुमार )  
(Dr. B.R.R. KUMAR)

लेखा सदस्य/ Accountant Member

“प्लम”

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

(दिवा सिंह )  
(DIVA SINGH)

न्यायिक सदस्य/Judicial Member

आदेशानुसार/ By order,  
सहायक पंजीकार/ Assistant Registrar  
ITAT, Chandigarh.