

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
CHANDIGARH BENCHES, 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.734/CHD/2018

निर्धारण वर्ष / Assessment Year : 2013-14

Shri Randhir Singh, # 490, Bhai Sukha Singh Colony, Village-Kotla Dadheri, Mandi Gobindgrh.	बनाम VS	The ITO, Ward-2, Mandi Gobindgarh.
स्थायी लेखा सं./PAN No: AXGPS5644F		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Deepak Aggarwal

राजस्व की ओर से/ Revenue by : Shri Manjit Singh, Sr.DR

सुनवाई की तारीख/Date of Hearing : 08.10.2018

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 16.03.2018 of CIT(A)-1, Ludhiana pertaining to 2013-14 assessment year on the following grounds :

1. That the Id. CIT(A) is not justified in confirming the addition of Rs.7,22,620/-, by making reverse calculation of taxable income on the basis of self assessment tax paid by the assessee amounting to Rs. 1,16,000/- whereas, as per the assessee the self assessment tax was wrongly deposited and a sum of Rs.1,02,484/- in total was deposited in the bank accounts of the assessee during the impugned period, therefore the addition is prayed to be deleted.
2. That the assessee prays for any consequential relief and/or legal claim arising out of this appeal before the disposal of the same.
3. That the assessee prays for any addition, deletion, amendment and modification in the grounds of appeal before the disposal of the same in the interest of substantial justice to the assessee.

2. The Id. AR inviting attention to the record submitted that the assessment has been made u/s 144 of the Act and the assessee in the present appeal relied upon written submissions filed through e-mail and thus, the supporting evidences which the assessee seeks to place on record by way of an application dated 04.09.2018 under Rule 18(4) could

not be filed. The evidences being relevant and crucial for determining the issue, it was submitted, may be accepted and the appeal may be remanded to the AO. It was his submission relying upon the application filed; *“The issue in the present case is about inadvertently deposit of Advance Tax by the assessee against his PAN, being an accountant it was his duty to make payment of advance tax of his employer, although the said payment was to be made against the PAN of his employer. But inadvertently it was paid against the PAN of the assessee.”*

2.1 The Id. Sr.DR on considering record submitted the issue may be remanded to the CIT(A) and not the AO as the fresh evidences following the procedure can be remanded to the AO and the CIT(A) can consider and decide the issue.

3. We have heard the rival submissions and perused the material on record. It is seen that in the facts of the present case, the assessee claims salary income of Rs. 1,80,000/- from private parties and Rs. 35,500/- from other sources. The assessee is also stated to be engaged in part time work of filing application forms for PAN cards and Adhaar Cards. The assessee, as per record, before the CIT(A) stated that while making online payment tax of Rs. 1,16,000/- with respect to another assessee M/s Param Steel Industries, Khanna from the bank account, the assessee mistakenly mentioned his own PAN. The said claim of the assessee was rejected by the CIT(A) holding as under :

*“The submissions of the appellant have been considered. The contention of the appellant was easily verifiable provided the appellant furnished an affidavit from Param Steel Industries and demonstrated the withdrawal of the said amount of self-assessment tax of Rs.1,16,000/- from the bank account maintained by them. For reasons best known to the appellant, the same was never brought before the AO during the assessment proceedings when the appellant was given sufficient opportunities to explain the same. Even in the appellate proceedings, such evidence has not been brought out to substantiate the veracity of his contentions. In the absence of any evidence with regard to the contention of the appellant, the averment made in the written submissions cannot be considered as genuine. In the circumstances, no fault can be found with the action of the AO in making the impugned addition to the returned income as it is very reasonable to hold that the self-assessment tax, which is not on estimate but based on actual calculations, would not be so different so as to claim a refund of the same. The mere fact that the deposit in the savings bank account of the appellant was less than the amount of self-assessment tax paid does not go on to prove that the declared income of the appellant was correct and genuine. As stated earlier, self-assessment tax is not an estimated tax like advance tax and hence claim of refund of the self-assessment tax, does not inspire trust. The appellant did not bring out any evidence to prove the averments made in the written submissions.”*

4. We find that the fresh evidences relied upon by the assessee before the ITAT consists of the Income Tax Returns for different years

filed by the assessee. We do not find that this is sufficient and relevant for deciding the issue. In the facts of the present case, the assessee is required to demonstrate that the amount of Rs. 1,16,000/- was withdrawn from M/s Param Steel Industries. We also note that no affidavit etc. on behalf of the said concern is made available on record. However, since Id. AR has made a prayer for remand which on facts has not been opposed by the department, we set aside the issue back to the file of the CIT(A) with the direction to pass a speaking order in accordance with law. We find that in the facts of the present case the evidences filed are neither relevant nor sufficient to decide the issue. Accordingly, the assessee, in its own interest is directed to place supporting evidences on which he would seek to place reliance. Said order was pronounced in the Open Court at the time of hearing itself.

5. In the result, appeal of the assessee is allowed for statistical purposes in terms of pronouncement made in the Court.

Order pronounced in the Open Court on 28.11. 2018.

Sd/-

( डा. बी.आर.आर. कुमार )

(Dr. B.R.R. KUMAR)

लेखा सदस्य/ Accountant Member

“पूनम”

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

Sd/-

(दिवा सिंह )

(DIVA SINGH)

न्यायिक सदस्य/Judicial Member

आदेशानुसार/ By order,

सहायक पंजीकार/ Assistant Registrar