

**IN THE INCOME TAX APPELLATE TRIBUNAL
CAMP BENCH 'SMC' AT JALANDHAR**

Before Sh. N. K. Saini, Hon'ble Vice President

ITA No.177/Asr./2018 : Asstt. Year : 2011-12

Sh. Jagdip Singh, S/o Sh. Balbir Singh, Village- Daulatpur, Jalandhar	Vs	Income Tax Officer, Ward-IV(3), Jalandhar
(APPELLANT)		(RESPONDENT)
PAN No. CTHPS2041F		

Assessee by : Sh. J. S. Bhasin, Adv.

Revenue by : Sh. Bhawani Shankar, DR

Date of Hearing : 09.01.2019

Date of Pronouncement : 11.01.2019

ORDER

This is an appeal by the assessee against the order dated 21.08.2017 of Id. CIT(A)-2, Jalandhar.

2. The main grievance of the assessee in this appeal relates to the *ex-parte* order passed by the Id. CIT(A) without affording proper opportunity of being heard to the assessee.

3. Facts of the case in brief are that the AO on the basis of information received that the assessee had deposited an amount of Rs.26,00,000/- i.e. Rs.10,00,000/- in Insurance policy and Rs.16,00,000/- in FDR with PNB Bank Allawalpur, issued a notice u/s 148 of the Income Tax Act, 1961 (hereinafter referred to as the Act) to call for the return of income. Since, the assessee did not furnish any return, the AO made the addition of Rs.20,00,000/-

4. Being aggrieved the assessee carried the matter to the Id. CIT(A) who dismissed the appeal in *limine* by observing that the assessee did not attend on the dates fixed for hearing.

5. Now the assessee is in appeal. The Id. Counsel for the assessee submitted that no opportunity of being heard was provided by the Id. CIT(A) and that the assessee attended on 20.07.2017 and requested the adjournment till 16.08.2017 but the date of adjournment was not communicated to the assessee. Therefore, the Id. CIT(A) was not justified in observing that sufficient opportunity of being heard was provided to the assessee.

6. In his rival submissions, the Id. DR supported the impugned order passed by the Id. CIT(A).

7. We have considered the submissions of both the parties and perused the material available on the record. In the present case, it is an admitted fact that the Id. CIT(A) dismissed the appeal of the assessee by passing an *ex-parte* order. However, it is not clear as to whether the date fixed or hearing vide issuance of notice dated 16.08.2017 was communicated to the assessee because at para 3 the Id. CIT(A) himself left the column blank which was relating to the date of hearing fixed, which clearly shows that no date of hearing was communicated to the assessee. It is well settled that nobody should be condemned unheard as per the *maxim "audi alteram partem"*. We, therefore, by keeping in view the principles of natural justice, deem it appropriate to set aside this case back to the file of the Id. CIT(A) to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of being heard to the assessee.

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

(Order Pronounced in the Court on 11/01/2019)

Sd/-
(N. K. Saini)
VICE PRESIDENT

Dated: 11/01/2019

Subodh

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR