

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

**Before Sh. N. K. Saini, Hon'ble Vice President
and
Sh. Ravish Sood, Judicial Member**

ITA No.77/Asr./2018 : Asstt. Year : 2013-14

Prem Pal Gandhi, Bhatti Colony, Chandigarh Road, Nawanshahar	Vs	Deputy Commissioner of Income Tax, Central Circle-II, Jalandhar
(APPELLANT)		(RESPONDENT)
PAN No. AAQPG6508D		

**Assessee by : Sh. M. R. Bhagat, Adv.
Revenue by : Sh. Bhawani Shankar, DR**

Date of Hearing : 09.01.2019	Date of Pronouncement : 11.01.2019
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ORDER

Per N. K. Saini, Vice President:

This is an appeal by the assessee against the order dated 09.11.2017 of Id. CIT(A)-5, Ludhiana.

2. Following grounds have been raised in this appeal:

“1. The order is perverse, arbitrary, and not based on proper appreciation of the facts of the case and the law.

2. The Commissioner of Income Tax (Appeals) passed the order in the presence of persons who submitted application for adjournment of hearing but was not authorized Representative of the assessee and was not having power of attorney. It is prayed that order may be cancelled.

3. The learned CIT (A) erred to confirm addition of Rs. 8359/- as excess interest claimed u/s 24, ignoring the fact that the Bank also charged bank charges in addition to the regular interest.

4. The Commissioner of Income Tax (Appeals) erred to confirm addition of Rs.2,00,000/- on the ground that assessee agreed to that addition without appreciating that the appellant had not agreed to that and there was no such provision in the Act.

5. The appellant craves leave to amend any ground (s) or add any new ground (s) before the appeal is finally disposed off.”

3. The main grievance of the assessee vide ground no. 2 relates to the action of the Id. CIT(A) in passing the impugned order when adjournment application was submitted and the person who was present was not authorized to represent the assessee's case.

4. Facts of the case in brief are that the assessee filed the return of income on 25.03.2014 declaring an income of Rs.51,01,370/-. Later on, the case was selected for scrutiny. The AO framed the assessment at an income of Rs.53,09,729/- by making the additions of Rs.2,08,359/-.

5. Being aggrieved the assessee carried the matter to the Id. CIT(A) who sustained the addition made by the AO.

6. Now the assessee is in appeal. The Id. Counsel for the assessee submitted that the Id. CIT(A) wrongly mentioned that Sh. Amit Kapoor, CA was present and argued the matter. It was submitted that Sh. Amit Kapoor, CA was not authorized person but went to sought the adjournment on behalf of the assessee.

It was further submitted that Power of Attorney of Sh. M. R. Bhagat and Sh. Rajendra Chopra, CA was furnished before the Id. CIT(A) who were the authorized persons and sought the adjournment by sending Sh. Amit Kapoor, CA who was not having any Power of Attorney. Therefore, the Id. CIT(A) without appreciating the facts considered that Sh. Amit Kapoor, CA filed the written submission on behalf of the assessee. It was pointed out that no such written submission was furnished by the authorized representative rather adjournment was sought. It was contended that the impugned order passed by the Id. CIT(A) without affording an opportunity of being heard was not justified. He requested to restore the case to the file of the Id. CIT(A) for adjudication after providing due and reasonable opportunity of being heard to the assessee.

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

8. We have considered the submissions of both the parties and perused the material available on the record. In our opinion, the contention of the Id. Counsel for the assessee that an adjournment was sought before the Id. CIT(A) through Sh. Amit Kapoor, who was sent for seeking the adjournment and that he was not authorized representative of the assessee rather Sh. M. R. Bhagat and Sh. Rajendra Chopra, CA were the authorized representative who had filed Power of Attorney before the Id. CIT(A), this fact requires verification at the level of the Id. CIT(A). We, therefore, deem it appropriate to set aside this case back to the file of the Id. CIT(A) to be adjudicated in accordance with law after verifying the aforesaid facts.

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

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

Sd/-
(Ravish Sood)
JUDICIAL MEMBER

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