

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR**

**Before Sh. N. S. Saini, Accountant Member
And**

Sh. N. K. Choudhry, Judicial Member

ITA No. 424/Asr./2017 : Asstt. Year : 2005-06

Shri Hardip Singh, S/o Shri Kartar Singh, C/o Saggu Service Station, Hide Market, Amritsar	Vs	Income Tax Officer, Ward-3(2), Amritsar
(APPELLANT)		(RESPONDENT)
PAN No. ACHPS1232K		

**Assessee by : Ms. Radhika Goel, CA
Revenue by : Smt. Ratinder Kaur, DR**

Date of Hearing :20.02.2019	Date of Pronouncement : 21.02.2019
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ORDER

Per N. S. Saini, AM:

This is an appeal filed by the assessee against the order of CIT(A)-1, Amritsar dated 28.02.2017.

2. The assessee has raised following grounds of appeal:

"1. That the impugned order is based on surmises and not based on the facts of the case.

2. Addition of Rs.3,94,000/- as unexplained loans have been wrongly made without appreciating my submissions.

3. The notice of demand is pre-dated 28-12-2012, whereas assessment order is dated 31-12-2012.

4. Any other ground of appeal that may be taken at the time of hearing."

3. We have heard the rival submissions and perused the orders of the lower authorities and materials available on record.

4. Ground No. 3 of the appeal of the assessee involves a legal issue and therefore, the same is adjudicated earlier. The said ground reads as under:

"3. The notice of demand is pre-dated 28-12-2012, whereas assessment order is dated 31-12-2012."

5. Before us, the Ld. Authorized Representative of the assessee Ms. Radhika Goel, C.A. has filed a copy of demand notice issued u/s 156 of the Act by the Assessing Officer for the year under consideration in the instant case and pointed out that the same bears the date as 28.12.2012. Further, it was pointed out that the relevant order of assessment was dated 31.12.2012.

6. Further, the Ld. Authorized Representative placed at page No. 6 of the paper book, a copy of notice dated 26.12.2012 which shows that the date of hearing was fixed on 31.12.2012 at 11 AM. It was argued that before the date of hearing itself, the demand notice was prepared to give effect to the demand notice, the impugned order of assessment was passed without allowing any opportunity of hearing. Thus, the impugned order being passed in violation to the principles of natural justice, the same is bad in law.

7. The Ld. Departmental Representative could not controvert the submission of the Ld. Authorized Representative.

8. We find that demand notice itself was issued on 28.12.2012, the hearing fixed on 31.12.2012 became farce. Thus, we agree that proper opportunity of hearing was not allowed and the impugned order was passed in violation of principles of natural justice. We, therefore, set aside the same and allow this ground of appeal of the assessee.

9. In view of our above decision, the other grounds of appeal have become infructuous and therefore, not separately adjudicated. Thus, appeal of the assessee is allowed.

10. In the result, the appeal of the assessee is allowed.
(Order Pronounced in the Open Court on 21/02/2019)

Sd/-
(N. K. Choudhry)
Judicial Member

Sd/-
(N. S. Saini)
Accountant Member

Dated: 21/02/2019

Subodh

Copy forwarded to:

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

ASSISTANT REGISTRAR