

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, 'SMC', CHANDIGARH

श्री संजय गर्ग, न्यायिक सदस्य
BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER

आयकर अपील सं./ ITA No. 1584/CHD/2018

निर्धारण वर्ष / Assessment Year : 2010-11

Shri Pritpal Singh, C/o Walia Vedio Parlour, Hoshiarpur Road, Near Apahaj Ghar, Phagwara	Vs. बनाम	The ITO, Ward-6(2), Ludhiana
स्थायी लेखा सं./PAN NO: ABNPA4218J		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : None

राजस्व की ओर से/ Revenue by : Sh. Manjit Singh, CIT DR

सुनवाई की तारीख/Date of Hearing : 10.06.2019

उदघोषणा की तारीख/Date of Pronouncement : 10 .06.2019

आदेश/Order

The present appeal has been preferred by the assessee against the order dated 14.09.2018 of the Commissioner of Income Tax (Appeals)- 3, Ludhiana [hereinafter referred to as 'CIT(A)'].

2. The assessee in this case has taken following grounds of appeal:-

1. *That the Ld. CIT(A) has erred in law and facts of the case, while upholding that there was valid service of notice by A.O. under the provisions of Income Tax Act, 1961 & Income Tax, Rules 1962, and thus, providing sufficient opportunity to substantiate his case.*
2. *That the Ld. CIT(A) has erred in law and facts of the case, while upholding the additions made by the A.O.,*

amounting to Rs. 6,85,026/- without admitting the additional evidence under Rule 46A of the Income Tax Rules, 1962.

3. *That the appellant craves the right to add, amend or delete any grounds of appeal before it is finally disposed off.*

3. No one has come present despite service of notice in this case, hence, I proceed to decide the appeal ex-parte of the assessee after hearing the Ld. DR.

3. In this case the assessee did not file the return of income. The Assessing Officer noted from the TDS Certificate that the total income of the assessee exceeded the limits prescribed for taxation of income. Hence, he issued notice at the last known address of the assessee. No one appeared on behalf of the assessee. The Assessing Officer, therefore, framed the ex-parte assessment u/s 144 of the Act and made the impugned additions into the income of the assessee.

4. Being aggrieved by the above additions, the assessee preferred appeal before the Ld. CIT(A). It was pleaded before the Ld. CIT (A) that in fact the assessee had shifted to a foreign country i.e USA on permanent basis and because of that the assessee did not receive any notice sent by the Assessing Officer. It was further pleaded that the total income received by the assessee during the year was less than the prescribed limit of Rs. 5 lacs and, therefore, the assessee was not

exigible to the Income Tax for the year under consideration. The assessee also sought to furnish certain additional evidences under Rule 46A of the I.T. Rules, 1962 in this respect. However, the Ld. CIT(A) rejected the above contention of the assessee and held that since the assessee had not filed the return of income, hence, the additional evidences of the assessee could not be admitted. He, accordingly sustained the additions made by the Assessing Officer.

5. I have also gone through the record. It has been categorically written by the Ld. CIT(A) in the impugned order that the assessee had shifted his base to USA and that is why he could not appear before the Assessing Officer. Since the above contention has not been denied or rebutted by the Revenue, in my view, there was sufficient reason with the assessee for not appearing before the Assessing Officer as the assessee did not receive any notice of hearing issued by the Assessing Officer. In my view, the interest of justice will be well served if the assessee is given an opportunity to present his case before the Assessing Officer.

6. In view of this, the impugned order of the CIT(A) is hereby set aside and the matter is restored to the file of the Assessing Officer for decision afresh in accordance with law. Needless to say that the Assessing Officer will give proper opportunity to the assessee to present his case. At the same time, I also direct that the assessee will either himself or through his Authorized Representative will promptly appear

and furnish necessary details before the Assessing Officer as and when called for.

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

Order dictated and pronounced in the Open Court immediately on completion of hearing

Sd/-
(संजय गर्ग / SANJAY GARG)
न्यायिक सदस्य/ Judicial Member

Dated : 10.06.2019
“आर.के.”

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

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar