

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, "बी" चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, "B", CHANDIGARH

श्री एन. के. सैनी, उपाध्यक्ष एवं श्री संजय गर्ग, न्यायिक सदस्य
BEFORE SHRI N.K. SAINI, VICE PRESIDENT &
SHRI SANJAY GARG, JUDICIAL MEMBER

आयकर अपील सं./ ITA No. 1366/CHD/2019

निर्धारण वर्ष / Assessment Year : 2010-11

Smt. Raj Batra, House No. 2348, Sector 23-C, Chandigarh	बनाम	The DCIT, Circle, Chandigarh
स्थायी लेखा सं./PAN NO: APNPB6371F		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

Hearing though video Conferencing

निर्धारिती की ओर से/Assessee by : Shri Parikshit Aggarwal, CA
राजस्व की ओर से/ Revenue by : Shri Daya Inder Singh Sidhu, Addl. CIT

सुनवाई की तारीख/Date of Hearing : 08.06.2020
उद्घोषणा की तारीख/Date of Pronouncement : 08.06.2020

आदेश/Order

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 23.08.2019 of the Commissioner of Income Tax (Appeals)-43, New Delhi [hereinafter referred to as 'CIT(A)']

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

1. *That on the facts, circumstances and legal position of the case, the Worthy CIT(A) in Appeal No. 10043/2018-19 has erred in passing that order in contravention of the provisions of S. 250(6) of the Income Tax Act, 1961.*
2. *That on law, facts and circumstances of the case, the Worthy CIT(A) has erred in confirming the action of Ld. AO in initiating, continuing and then concluding the impugned assessment u/s 144 r.w.s. 147 of the Act and the whole impugned assessment deserves to be quashed.*
3. *That on law, facts and circumstances of the case, the Worthy CIT(A) has erred in confirming the action of Ld. AO in assuming jurisdiction over the appellant even when he lacked jurisdiction and therefore the whole of the impugned assessment deserves to be quashed.*
4. *That on law, facts and circumstances of the case, the Worthy CIT(A) has erred in confirming the action of Ld. AO in making addition of Rs. 19,89,000/- by treating the cash deposits in the bank as unexplained money u/s 69A even when such deposits were out of genuine and explained sources.*
5. *That on law, facts and circumstances of the case, the Worthy CIT(A) has erred in confirming the action of Ld. AO in making addition of Rs. 82,451/- on account of redemption of mutual funds u/s 111A as short term capital gain.*
6. *That on law, facts and circumstances of the case, the Worthy CIT(A) has erred in confirming the action of Ld. AO in making addition of Rs. 66,609/- on account of interest received from Kotak Mahindra Bank u/s 56 as other sources income.*
7. *That on facts, circumstances and legal position of the case, the impugned assessment order passed by the Ld. AO deserves to be quashed having been framed in haste and without affording reasonable opportunity of being heard.*

8. That on facts, circumstances and legal position of the case, the impugned appellate order passed by the Worthy CIT(A) deserves to be set-aside having been passed in haste and without affording reasonable opportunity of being heard.

3. The assessee in is a Non-resident Indian (NRI). The main grievance of the assessee relates to the ex-parte order passed by the CIT(A) stating that the same is against the principles of natural justice.

4. During the course of hearing the Ld. Counsel for the Assessee, at the very outset, has stated that no notices of hearings for the dates fixed were received by the assessee, therefore, the CIT(A) was not justified in passing the ex-parte order without providing due and reasonable opportunity of being heard to the assessee. The Ld. Counsel has further submitted that even the assessment order passed by the Ld. DCIT (International Taxation) was an ex-parte order.

5. In his rival submissions the Ld. DR although supported the orders of the lower authorities but could not controvert the aforesaid contention of the Ld. Counsel for the Assessee.

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 Ld. CIT(A) as well as Assessing Officer passed the impugned orders ex-parte and nothing is brought on record to substantiate that the notices for hearing were served upon 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 Assessing Officer to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of being heard to the assessee.

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

Order pronounced on 08.06.2020.

Sd/-
(एन. के. सैनी / N.K. SAINI)
उपाध्यक्ष /Vice President
Dated : 08.06.2020
“आर.के.”

Sd/-
(संजय गर्ग / SANJAY GARG)
न्यायिकसदस्य/ Judicial Member

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. आयकरआयुक्त (अपील)/ The CIT(A)
5. विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्डफाईल/ Guard File

आदेशानुसार/ By order,
सहायकपंजीकार/ Assistant Registrar