

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, "ए" चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, "A", 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. 1580/CHD/2019

निर्धारण वर्ष / Assessment Year : 2011-12

Shri Karamveer, #5, Block no.183, Vill Pindari, Jind	बनाम	The ITO, Ward -2, Jind
स्थायी लेखा सं./PAN NO: BDWPK4414Q		
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 Arvind Sudershan, JCIT

सुनवाई की तारीख/Date of Hearing : 18.06.2020
उदघोषणा की तारीख/Date of Pronouncement : 06.07.2020

आदेश/Order

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 29.7.2019 of the Commissioner of Income Tax (Appeals), Hisar [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. 247/HSR/2018-19 has erred in passing that order in contravention of the provisions of Section 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 wherein he had made addition of Rs. 12,54,500/- u/s 68 on account of alleged unexplained cash deposits in bank.*
3. *That on law, facts and circumstances of the case, the impugned order passed by Worthy CIT(A) deserves to be set-aside as no reasonable opportunity of being heard was afforded to the appellant.*
4. *That on law, facts and circumstances of the case, the assessment order passed by Ld. AO deserves to be set-aside as no reasonable opportunity of being heard was afforded by him to the appellant.*
5. *That the appellant craves leave for any addition, deletion or amendment in the grounds of appeal on or before the disposal of the same.*

4. In this appeal, the main grievance of the assessee relates to the ex-parte order passed by the CIT (A).

5. The Ld. Counsel for the assessee, at the very outset, has stated that the Ld. CIT(A) has not given reasonable opportunity of hearing to the assessee. That the appeal of the assessee has been decided after perusal of the assessment order. In this respect, Ld. Counsel for the assessee has invited our attention to the impugned ex-parte order of the CIT(A).

5. The Ld. DR has not rebutted the above submissions of the Ld. Counsel for the assessee.

6. We have gone through the order passed by the Ld. CIT(A). We find that the Ld. CIT(A) in the impugned order has taken excerpts from the assessment order, however, no submissions of the counsel of the assessee has been recorded in the order. We find force in the contention of the Ld. CIT(A) that the assessee was required to be given reasonable opportunity of hearing before deciding the appeal of the assessee on merits. In view of the above discussion, we are of the view, that the interest of justice will be well served, if the assessee is given an opportunity to present his case before the Ld. CIT(A). In view of this, the impugned order of the CIT(A) is set aside and the matter is restored to the file of the CIT(A) for decision afresh. Needless to say that CIT(A) will provide proper opportunity to the assessee to present his case and thereafter pass order afresh as per the provisions of the law.

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

Order pronounced on 06.07.2020

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