

**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. 31/CHD/2020

निर्धारण वर्ष / Assessment Year : 2016-17

Shri Ramphal, Ashram Basti, Near Atta Chakki, Jind 126102	बनाम	The ITO, Ward -2, Jind
स्थायी लेखा सं./PAN NO: BNKPR7669J		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

**Hearing though video Conferencing**

निर्धारिती की ओर से/Assessee by : S/Shri Nikhil Goyal & Ashok Goyal, CAs

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 25.10.2019 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 the order of the Ld. CIT(A) is bad in law and without consideration of facts of the case.*

2. *That the Ld. CIT(A) has not decided the grounds of appeal and disposed the appeal ex-parte relying on the legal principle "VIGILANTIBUS, NOM DORMETIBUS, JURA SUBVENIENT".*

3. *That the Ld. CIT(A) has not given any decision on merits of the case and dismissed the appeal basis the non-appearance of appellant.*

4. *That the order of the Ld. CIT(A) is against the principle of natural justice as notices dated 16.08.2019, 27.08.2019 and 18.09.2019 were issued but not served upon the assessee.*

5. *That the Id. CIT(A) has dismissed the appeal without taking into consideration the requested for adjournment filed the counsel of the appellant against the notice dated 14.10.2019.*

6. *The appellant craves leaves to add or amend the ground of appeal before the appeal finally heard or deposed of.*

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 no notices of hearings for the dates fixed were ever served upon 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 for the assessee has further submitted that the Ld. CIT(A) has failed to decide the appeal of the assessee on merits. The Ld. Counsel for the assessee has, therefore, submitted that

the matter may be remanded back to the file of the CIT(A) so that assessee may get an opportunity to present his case.

6. In his rival submissions, the Ld. DR although supported the orders of the CIT(A) 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) passed the impugned order 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 the CIT(A) in this case, 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 06.07.2020.

Sd/-  
(एन. के. सैनी / N.K. SAINI)  
उपाध्यक्ष /Vice President  
Dated : 06.07.2020  
“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