

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. 82/CHD/2019

निर्धारण वर्ष / Assessment Year : 2010-11

Shri Paramjit Singh Sidhu, H.N. 1538, Sector 34-D Chandigarh	बनाम	The ITO, Ward 4(3), Chandigarh
स्थायी लेखा सं./PAN NO: ACTPS3686H		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

Hearing through video Conferencing

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

सुनवाई की तारीख/Date of Hearing : 05.08.2020
उदघोषणा की तारीख/Date of Pronouncement : 05 .08.2020

आदेश/Order

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 21.8.2018 of the Commissioner of Income Tax (Appeals)-2, Chandigarh [hereinafter referred to as 'CIT(A)'] .

2. The appeal is time barred by 76 days. A separate application has been moved by the assessee for condonation of delay, wherein, it has been pleaded that the daughter-in-law of the applicant had died

on 4.2.2018. The applicant had to left India on 6.2.2018 and thereafter the applicant came back to India on 31.3.2018 but again left for England on 15.8.2018. Thereafter, he came back to India in the month of December 2018. That the applicant did not get any notice of hearing from the office of the CIT(A). That the impugned order has been passed the Ld. CIT(A) ex-parte of the applicant on 21.8.2018 and that during that period the applicant was not present in India. That even the copy of the impugned order was not served upon the applicant. It was only during the assessment proceedings for the assessment year 2016-17, the Assessing Officer informed that appeal of the applicant had been dismissed by the CIT(A). Thereafter, the applicant procured the copy of the order and filed the present appeal. The application of the assessee is supported with the affidavit of the applicant – assessee.

3. Considering the above submissions, which are further corroborated with the copy of the passport of the applicant, it is proved on file that the applicant was not present in India at the time of the passing of the impugned order and further that the copy of the order was not served upon the applicant in time.

4. In view of the above discussion, the delay in filing the appeal is hereby condoned. For identical reasons, the ex-parte order of the Ld. CIT(A) is also set aside. At this stage, the Ld. Counsel for the applicant–assessee has submitted that even the order of the Assessing

Officer is an ex-parte order. The applicant could not present himself during the assessment proceedings due to the compelling circumstances. The Ld. Counsel has submitted that for the sake of natural justice, the matter may be restored to the file of the Assessing Officer for assessment afresh.

5. The Ld. DR could not rebut the above contention of the Ld. Counsel for the assessee. In view of this, the impugned order of the CIT(A) is set aside and the matter is restored to the file of the Assessing Officer for assessment afresh.

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

Order pronounced on 05.08.2020

Sd/-
(एन. के. सैनी / N.K. SAINI)
उपाध्यक्ष /Vice President
Dated : 05.08.2020
"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

