

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ “बी”, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL,
CHANDIGARH BENCH ‘B’, CHANDIGARH

BEFORE SMT.DIVA SINGH, JUDICIAL MEMBER
AND SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER

ITA Nos. 231 to 233/Chd/2020

(Assessment Years: 2006-07 to 2008-09)

&

ITA No. 234/Chd/2020

(Assessment Year: 2011-12)

Shiv Shambhu Sharma, S/o Sh.Chanan Mal Sharma, Ward-10, Palikabazar, Ellenabad, Distt. Sirsa (Haryana) स्थायी लेखा सं./PAN NO: CMPPS7244M	बनाम	Income Tax Officer, Ward-2, Sirsa.
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निर्धारिती की ओर से/Assessee by: Shri Navdeep Monga, Adv.

राजस्व की ओर से/ Revenue by : Shri Arvind Sudershan, JCIT

सुनवाई की तारीख/Date of Hearing: 17.01.2022

उद्घोषणा की तारीख/Date of Pronouncement: 20.01.2022

(Hearing through Webex)

आदेश/ORDER

PER BENCH:

These are four appeals filed by the aforesaid assessee against the respective orders of Learned Commissioner of Income Tax (Appeals), Hisar [in short the ‘Ld. CIT(A)’] passed u/s 250(6) of the Income Tax Act, 1961 (in short ‘the Act’) dated 31.12.2019, 31.12.2019, 26.08.2019 and 26.08.2019

relating to assessment year 2006-07, 2007,08, 2008-09 and 2011-12 respectively.

2. Since the issue involved in all the appeals is similar, these matters were taken up together and are being disposed off by this consolidated order for the sake of convenience.

3. **In ITA No.231/Chd/2020**, it is noticed that the assessee has taken various grounds of appeal and in ground No.1, the assessee has challenged the legality of the proceedings u/s 144 r.w.s. 147 of the Act. Similarly, in ground No.2, the assessee has challenged the initiation of proceedings u/s 147 of the Act without there being any reason to believe that the income has escaped assessment and in ground No.3, the assessee has challenged the passing of the order u/s 144 r.w.s. 147 of the Act without supplying copy of reasons and without affording opportunity to file the objection.

4. On perusal of the grounds of appeal taken by the assessee before the Ld.CIT(A), it is noted that in ground No.1, the assessee has challenged the passing of the assessment order being unlawful, unwarranted and against the facts of the case and thereafter in ground No.6, the assessee has challenged the assessment order u/s 144 r.w.s. 147 of the Act being unlawful having no legal leg to stand and liable to be

quashed. We, however, find that the Ld.CIT(A) has disposed off ground of appeal No.1 stating it to be of general in nature requiring no specific comments in view of the adjudication of the succeeding grounds of appeal. Thereafter, he has adjudicated ground Nos.2, 4 and 5 as being inter-related which were on merits of the case. However, in respect of ground No.6, there has been no adjudication on the part of the Ld.CIT(A).

5. We, therefore, find that the grounds of appeal taken by the assessee before us on challenging the legality of the proceedings have also been taken by the assessee before the Ld.CIT(A). However, they have not been any adjudication thereof by the Ld.CIT(A) and he has only adjudicated on the grounds pertaining to the merits of the addition so made by the AO. In our considered opinion, where the grounds of appeal have been taken by the assessee before the Ld.CIT(A), it is required that the said grounds of appeal are also adjudicated upon and cannot be brushed aside lightly especially where there is nothing on record that the assessee has not pressed the said grounds of appeal before him and also given the fact that the said grounds of appeal have again been agitated before us, it is imperative that both the parties should have the benefit of the findings of the ld CIT(A) which they can rely or agitate again if not satisfied. Therefore,

considering the fact that the grounds challenging the legality of the proceedings have not been adjudicated upon by the Ld.CIT(A), we deem it appropriate to set aside the matter to the file of the Ld.CIT(A) for the limited purposes of adjudication of the grounds of appeal so taken by the assessee before him challenging the legality of the proceedings after providing reasonable opportunity to the assessee. Therefore, various grounds of appeal taken by the assessee are left open and have not been adjudicated upon by us. The appeal of the assessee is thus allowed for statistical purposes.

6. We find that in other cases namely **ITA No.232/Chd/2020, ITA No.233/Chd/2020 and ITA No.234/Chd/2020**, similar grounds of appeal have been taken by the assessee challenging the legality of the proceedings u/s 144 r.w.s. 147 of the Act before us as well as before the Ld.CIT(A) and in absence of findings of the Ld.CIT(A) on the grounds so raised before him, we deem it appropriate that the matter is set aside to the file of the Ld.CIT(A) for the limited purposes of adjudication of the grounds challenging the legality of the proceedings so raised by the assessee before him after providing reasonable opportunity to the assessee. Therefore, various grounds of appeal taken by the assessee are left open and have not been

adjudicated upon by us. The appeals of the assessee are thus allowed for statistical purposes.

7. In the result, all the appeals of the assessee are allowed for statistical purposes.

Order pronounced on 20.01.2022.

Sd/-
(DIVA SINGH)
न्यायकि सदस्य/Judicial Member

Sd/-
(VIKRAM SINGH YADAV)
लेखा सदस्य/Accountant Member

Dated: 20.01.2022

रती

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