

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

I.T.A. No. 292/Asr/2018
Assessment Year: 2009-10

Sh. Tarsem Singh
VPO Bainsawan, Dasuya
Hoshiarpur, Punjab, 144205
[PAN: CYAPS 8811D]
(Appellant)

Vs. Dy. Commissioner of Income
Tax (International Taxation),
Circle - Chandigarh, Chandigarh
(Respondent)

Appellant by : None

Respondent by: Sh. S. M. Surendranath, Sr. DR

Date of Hearing: 17.05.2022

Date of Pronouncement: 07.07.2022

ORDER

Per Dr. M. L. Meena, AM:

This appeal has been filed by the assessee against the impugned order dated 23.03.2018 passed by the Ld. Commissioner of Income Tax (Appeals)-43, New Delhi in respect of the Assessment Year 2009-10.

2. Since, the main objection of the assessee has been that CIT(A Confirmed the Assessment Order passed exparte qua the assessee u/s 144 of the Act in violation of the principles of natural justice and hence, it is

decided to hear the appeal in the larger interest of justice after hearing the Ld. DR. The assessee has raised the following grounds of appeal:

- “1. That having regard to the facts and circumstances of the case, Hon’ble CIT(A) has erred in law and on facts in confirming the action of Ld. AO in framing the impugned assessment order u/s 144 r.w.s.147 and without complying with the mandatory conditions’ u/s 147/148/151 as envisaged under the Income Tax Act, 1961.*
- 2. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making an addition of Rs. 26,98,000/- u/s 56(1) of the Act as income from other sources on account of insurance premium, payments being alleged from undisclosed sources, without considering the submissions of the assessee and without observing the principles of natural justice.*
- 3. That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.”*

3. Apropos ground No.2, the appellant assessee challenged the decision of CIT(Appeal) being against the facts and law in confirming the action of Ld. AO in making an addition of Rs. 26,98,000/- u/s 56(1) of the Act as income from other sources on account of insurance premium payments without considering the submissions of the assessee in violation of the principles of natural justice.

4. Heard the Ld. DR at length and have gone through the material available on record. Admittedly, the AO has made an addition of Rs. 26,98,000/- u/s 56(1) of the Act as income from other sources on account of insurance premium payments without considering the submissions of the assessee, in assessment order passed U/s. 144 of the I.T. Act, 1961, by

the AO, *ex parte* qua the assessee. During the course of the scrutiny assessment, the AO has treated the entire amount of insurance of Rs. 26,98,000/- as unexplained investment u/s 56(1) of the Act. The Id. CIT(A) has confirmed the said addition without submissions filed by the assessee for the reason that the assessee's couldn't adequately explain its claim with supporting evidence, without discussion cannot be can not be approved under law.

5. We find that the AO/ CIT(A) ought to have brought on record any contrary evidence to prove that the disputed insurance payment as unexplained investment. It is evident from the order of the CIT(A) that the submissions filed by the assessee has not been considered by him. In fact, the Ld. CIT(A) ought to have considered the submissions and even documentary evidence if any filed by the assessee by making verification from the sources mention in the written submissions regarding the insurance payment for the year under consideration by speaking order before jumping on the decision that assessee was not having sufficient fund to make payment of insurance of Rs. 26,98,000/- as unexplained investment u/s 56(1) of the Act.

6. In view of the principles of natural justice, we accept the grievance of the assessee as genuine and accordingly, we consider it deem fit to restore back the matter to the Ld. CIT(A) to decide afresh with the direction to pass a speaking order after considering the written submission and evidences filed on record before him during the appellate proceedings, and to be filed in fresh proceedings after granting sufficient opportunity of being heard to

the assessee. No doubt, the assessee shall cooperate in the fresh proceedings.

7. As the ground No. 2 is restored to the CIT(A) for afresh adjudication on merits in view of principles of natural justice, therefore, we refrain from adverting to and adjudicating the other legal issues on the basis of which the reopening u/s 147 of the Act has been assailed before us, which, thus, are left open.

8. In the result, appeal of the assessee is allowed in the terms indicated as above.

Order pronounced in the open court on 07.07.2022.

Sd/-
(Anikesh Banerjee)
Judicial Member

Sd/-
(Dr. M. L. Meena)
Accountant Member

GP/Sr.PS

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT(Appeals)
- (4) The CIT concerned
- (5) The Sr. DR, I.T.A.T.

True Copy
By Order