

**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. 503/Asr/2018
Assessment Year: 2010-11

Sh. Devi Datta,
2nd Floor, Swaran Complex,
Shashtri Market, Amritsar

[PAN: AAPPD 3630E]

(Appellant)

Vs. Income Tax Officer,
Ward 1(1), Amritsar

(Respondent)

Appellant by : Sh. J.P. Bhatia & Piyush Bhatia, Advs.

Respondent by: Ms. Amanpreet Kaur, Sr. DR

Date of Hearing: 29.09.2022

Date of Pronouncement: 13.10.2022

ORDER

Per Dr. M. L. Meena, AM:

This appeal has been filed by the assessee against the order dated 22.06.2018 passed by the Ld. Commissioner of Income Tax (Appeals)-1, Amritsar, in respect of Assessment Year 2010-11, challenging therein that

the impugned order was bad in law as no proper notice was sent on the address of the assessee.

2. At the outset, the Id. counsel for the assessee has submitted that the Id. CIT(A) erred on facts and in law in deciding the appeal ex-parte qua the assessee by not allowing the appellant assessee an adequate opportunity of being heard, and that he has confirmed the addition of Rs.5,01,396/- ignoring the fact that the appellant was second holder of the investment in mutual fund as evident Form 26AS. The counsel has filed any application under rule 29 of ITAT rules for admission of additional evidence dated 23rd September, 2022 stating therein details of the investment in mutual fund [APB pg. no. 1] along with bank statement. He requested that the matter may be remanded back to the Id. CIT(A) to adjudicate the matter after considering the facts of the case on merits.

3. The Id. DR stands by the impugned order, however he has no objection to the request of the appellant assessee.

4. Heard the rival contentions, perused the material on record and the impugned order. Admittedly, the Id. CIT(A) has passed the order ex-parte qua the assessee by confirming the addition of Rs.5,01,396/- on account of

investment in mutual fund made by the Assessing Officer by passing ex-parte order u/s 144 of the Income Tax Act.

5. It is evident from the record that both the authorities have passed ex-parte order qua the assessee without taking any rebuttal of the assessee on record regarding the addition made on account of investment in mutual fund. In our view, an addition made without granting opportunity of hearing to the assessee on the proposed additions is tantamount to gross violation of principle of natural justice. We understand that the additional evidence filed by the Id. AR have material bearing on the issue which is required to be considered by the Id. CIT(A) while adjudicating the issue under consideration in the interest of justice. Accordingly, we are of the view, that it is a fit case to be remanded back to the file of the Id. CIT(A) to adjudicate the issue of investment in the mutual fund by the assessee afresh after considering the additional evidence filed on record [APB pg. nos. 1 to 16]. The Id. CIT(A) shall grant adequate opportunity of being heard to the assessee. The assessee is directed to cooperate in the fresh proceedings before the Id. CIT(A).

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 13.10.2022

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