

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

**(VIRTUAL COURT)**

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

**I.T.A. Nos. 41 to 45/Asr/2023**

Assessment Years: 2013-14 to 2017-18

Smt. Tarsem Kaur Tanda  
D/o Sh. Biru Ram H. No.  
254, Near Ucha Gurdwara  
Vill. Behram, SBS Nagar,  
Punjab

[PAN: AHGPT 7376M]

**(Appellant)**

**V.** Income Tax Officer,  
Nawanshahr

**(Respondent)**

Appellant by Sh. J. S. Bhasin, Adv.

Respondent by Sh. Bavinder Kaur, CIT- DR

Date of Hearing : 08.05.2023

Date of Pronouncement : 12.05.2023

**ORDER**

**Per Bench:**

These appeals have been filed by the assessee against the orders of the Ld. CIT(A) National Faceless Appeal Centre (NFAC), Delhi even dated 28.11.2022 in respect of AYs 2013-14 to 2017-18.

2. The assessee has raised the following grounds of appeal in ITA No. 41/Asr/2023 as a lead case:

- “1. That the Id. CIT(A)/NFAC, Delhi was not justified in summarily dismissing the appeal of the assessee, in violation of natural justice, without affording adequate opportunity of hearing to assessee.
2. That the Id. CIT(A)/NFAC, Delhi was not justified in impliedly upholding the addition of Rs.82,28,424/- as made by the AO by wrongly invoking powers u/s 147/148.
3. That the impugned order is liable to be set aside, as the Id. CIT(A)/NFAC, Delhi was not competent in law to dismiss the appeal *in limine* without adjudication of the issues in appeal.”

3. The appellant has raised common issue on identical facts, challenging the orders of the Ld. CIT(A)/NFAC, Delhi being passed *ex parte* qua the assessee in summarily manner by dismissing the appeal of the assessee, in violation of principles of natural justice, without affording adequate opportunity of hearing to assessee. The counsel pleaded that impugned orders are liable to be set aside, as the Id. CIT(A)/NFAC, Delhi was not competent in law to dismiss the appeal *in limine* without adjudication of the issues in appeal on merits. He prayed that these appeals may be restored to the Ld. CIT(A) to adjudicate the issue involved in the appeals on merits and pass the orders as per law. The Ld. AR

prayed that the matter may be restore to the Ld. CIT(A) to decide on merits as per law.

4. Per contra, the Ld DR although supported the impugned order, however, he has failed to rebut the contention raised by the counsel on principles of natural justice.

5. Having heard rival contentions, perused the material on record, and impugned orders, it is undisputed facts noted that the CIT(A) has dismissed these appeals in limine without adjudication of the issues raised in appeal on merits in violation of principles of natural justice. Merely observing that no written submissions were made by the appellant in response to the notices issued and that the appeal cannot be kept pending for indefinite period without reasonable cause without substantiating the factum of service of notice on the appellant assessee amounts to no service in absence of corroborative evidence on record. The Ld. CIT (A) failed to establish in observing that the appellant was not interested in prosecuting the appeal filed. In our view, the Ld. CIT(A) was not justified in rejecting the captioned appeals of the appellant *in limine, ex parte qua* the assessee without adjudication of the issues involved in appeals on merits by alleging that she was not interested in prosecuting the appeals filed.

6. Considering the peculiar facts of the case, we are of the considered view that the matter is liable to be restored to the Ld. CIT(A) to decide on merits as per law in the interest of natural justice. The Supreme Court of India in the case of Tin Box Company vs. CIT reported in 249 ITR 216 in has observed as under:

*“Assessment - Opportunity of being heard - Setting aside of assessment - Assessment order must be made after the assessee has been given reasonable opportunity of setting out his case - Same not done - Fact that the assessee could have placed evidence before the first appellate authority or before the Tribunal is really of no consequence for it is assessment order that counts — Assessment order set aside and matter remanded to assessing authority for fresh consideration.” (APB, Pgs. 4-5)*

7. On similar facts, the Coordinate Bench, Amritsar in the case of Sh. Manjit Singh vs. ITO, Ward 3(2), Amritsar in ITA No: 44/Asr/2022, order dated 17/11/2022 relating to AY 2017-18, vide para 8, 9 & 10 has held as under:

*“8. We have carefully considered the submission of both the sides, assessment order, impugned order and material placed on record. Admittedly, there is an addition of an amount of Rs.35,04,500/- towards cash deposits in bank account maintained with Punjab National Bank in Bank of India in a staggered manner from 18th Nov., 2016 to 29th Nov., 2016 by the authorities below in exparte proceedings qua the assessee. It is seen that aggrieved with the exparte assessment order, the assessee preferred an appeal before the Learned CIT(A), NFAC Delhi who too decided this appeal ex-parte without*

*appreciating the facts and merits of the case as per the contentions raised by the appellant before us.*

9. *From the Impugned order, it is evident that the CIT(A) while passing the order has only reproduced the grounds of appeal raised by the assessee and the assessment order while dismissing the appeal of the assessee in limini without deciding the case on merits. We hold that the impugned order passed by the CIT(A) is a non-speaking being passed without application of mind to the issues raised in the grounds of appeal.*

10. *In view of the principles of natural Justice and considering the factual matrix of the case, we are of the considered view, that the appellant assessee should get an opportunity to explain and substantiate the nature cash deposits in the alleged bank account with the support of material evidence relevant for the year under consideration. Accordingly, we consider it deem fit to restore back the matter back to the file of the Ld. AO to pass de novo assessment 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.”*

8. In view of the matter and principles of natural justice, we consider it deem fit to restore back the matter back to the file of the Ld. CIT(A) to pass speaking order on merits adjudicating the issue of the appeals as per law, after considering the written submission and evidences filed on record and may be filed before him during the fresh proceedings after granting sufficient opportunity of being heard to the assessee. No doubt, the appellant shall cooperate in the fresh proceeding before the CIT(A).

9. In the result, all the five subject appeals of the assessee are allowed for statistical purposes.

*Order pronounced in the open court on 12.05.2023*

**Sd/-  
(Anikesh Banerjee)  
Judicial Member**

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

*\*GP/Sr./P.S.\**

Copy of the order forwarded to:

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

True Copy  
By Order