

**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. Nos. 51 & 52/Asr/2023
Assessment Year: 2012-13

Sh. Nirmal Singh
S/o Niranjan Singh,
H. No. 60, Vill. Golewala,
Faridkot

[PAN: DVNPS 0644K]
(Appellant)

Vs. ITO, Ward 3(4),
Faridkot

(Respondent)

Appellant by : Sh. J. K. Gupta, Adv.

Respondent by: Smt. Ratinder Kaur, Sr. DR

Date of Hearing: 11.07.2023

Date of Pronouncement: 14.07.2023

ORDER

Per Dr. M. L. Meena, AM:

Both the appeals are filed by the assessee against the order of the Ld. CIT(A) National Faceless Appeal Centre (NFAC), Delhi even dated 04.01.2023 in respect of Assessment Year 2012-13.

2. At the time of hearing, the Id. counsel for the assessee vide ground no. 7 pleaded that the Id. CIT(A) NFAC, Delhi has erred in upholding the re-assessment though no reasonable opportunity was given to the assessee to explain his case. So, the matter may be restored back to the file of the Assessing Officer to pass denovo assessment order for granting adequate opportunity of being heard to the assessee.

3. Per contra, the Id. Addl. CIT-DR for the Department submitted that although the AO has passed the re-assessment order u/s 144 r.w.s. 147 qua the assessee but it has been due to non compliance and non co-operation on the part of the assessee that compelled the AO to pass an ex-parte order based on the information available on the record, however, he has no objection in remanding the matter back to the file of the AO to pass denovo assessment after granting adequate opportunity of being heard to the assessee.

4. We have heard the rival contention, perused the material available on record, and the impugned order. Admittedly, the appellant assessee has not filed, its regular return of income u/s 139(1) nor even non-bothered to file return in compliance to the notice u/s 148 by the AO. The Id. CIT(A) has discussed that the appellant and his brother has claimed sale of agricultural

land in explanation to a source of cash deposit, however they have not provided any corroborative documentary evidences regarding having sold such agricultural land and showing a long term capital gain in their respective return of income for the relevant years. Considering the peculiar facts of the case, we consider it deem fit to remand the matter back to the file of the AO to pass denovo assessment order on merits of the case after considering the written submissions of the appellant assessee and after allowing the assessee an adequate opportunity of being heard in view of the principle of natural justice. The assessee is directed to co-operate in the denovo proceedings before the Assessing Officer by filing the necessary detailed information required for completion of the assessment as per law. Accordingly, the matter is resorted back to the file of the AO.

5. **In ITA No. 52/Asr/2023:** The assessee has challenged the consequential penalty levied by the AO. Since the quantum appeal has been restored back to the file of the AO for passing a denovo assessment order, hence, the appeal against the penalty order is also set aside and restore back to the file of the AO to adjudicate in consequence of passing the assessment order on merits as above.

6. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on 14.07.2023

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