

**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. 164/Asr/2022
Assessment Year: 2014-15

Sh. Navraj Hans
2706, B-Wing, Oberoi
Springs, Link Road,
Lokhandwala Andheri
(West) Mumbai 400053,
Maharashtra

[PAN: ACPFH 5707A]

(Appellant)

Vs.

The Income Tax Officer,
Ward 3(5), Jalandhar

(Respondent)

Appellant by : None

Respondent by: Sh. Rajiv Wadhwa, Sr. DR

Date of Hearing: 26.07.2023

Date of Pronouncement: 07.08.2023

ORDER

Per Dr. M. L. Meena, AM:

This appeal has been filed by the by the assessee against the order of the Ld. CIT(A) National Faceless Appeal Centre (NFAC), Delhi dated 23.06.2022 in respect of Assessment Year: 2014-15.

2. The assessee has raised the following grounds of appeal:

- “1. That the order passed by CIT(A) is against law and facts of the case.
2. That the Remand Report of AO has not been sent to the assessee for its comments.
3. That the confirmation of addition of Bank deposits amounting to Rs.31,27,500/- is against facts of the case.
4. That the CIT(Appeals) has not decided about the grounds of appeals of the assessee that the notice u/s 148 & 143(2) have not been served upon the assessee.
5. That the AO has made the assessment u/s 147/144 of I.T. Act, but the assessee had never received the notices and assessment order issued by the AO as he had shifted to the Bombay long time back.
6. The Assessing Officer has not formed his own opinion in regard to any income chargeable to tax has escaped assessment but has relied upon the report of Criminal Investigation, Chandigarh.
7. That the assessee craves to add or amend the grounds of appeal, before the same is heard or disposed off.”

3. None attended for the assessee. The adjournment application filed is found devoid of merits for vague reason mentioned therein to attend family function which would not fall in the category of bonafide reason and hence, adjournment application is rejected. Accordingly, we decided to hear the Id. DR to adjudicate the appeal on merits of the case.

4. A proposed ground no. 2, the assessee has challenged the impugned order in violation of principle of natural justice as the remand report of the AO has not been rebutted to the assessee to file its rejoinder.

5. The Appellant assessee has contended in the ground of appeal that the Remand Report of A.O. has not been sent to the assessee for its comments in rebuttal to the contentions of the AO in the remand report forming basis for the confirmation of the addition. In our view, the Ld. CIT(A) ought to have rebutted the Remand Report of A.O. to the assessee for its comments in compliance to the Principles of Natural Justice. Meaning thereby, that the CIT(A)'s has passed the impugned order in violation of principles of natural justice that cannot be approved.

6. Per contra, the Ld DR although supported the impugned order, however, he has no objection to the request of the appellant in view of principles of natural justice.

7. Heard rival contentions, perused the material on record, impugned order, written submission and case law cited before us. Admittedly, the AO has passed orders ex parte qua the assessee. The Ld. AR argued that the worthy CIT(A) decided the case ex-parte by not granting opportunity to the

appellant to rebut the remand report filed by the AO to file rejoinder to defend its appeal. In our view, the impugned order is passed ex-parte qua the assessee, as the Ld. CIT(A) has not appreciated the facts of the case and arbitrary confirmed the assessment order passed u/s 144 r.w.s. 147 of the I.T. Act, based on remand report without being rebutted to the appellant assessee to file rejoinder.

8. In view of the principles of natural justice, the authorities below ought to have confronted the remand report to the appellant by way of rebutting AO's contention and after considering the rejoinder of the appellant by granting an adequate opportunity of being heard, the Id. CIT(A) ought to have decided the matter. The Hon'ble Supreme Court of India in the case of Tin Box Company vs. CIT reported in 249 ITR 216 in which their Lordships of Supreme Court of India 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.”

9. In the present case, since the remand report is obtained by the Id. CIT(A) but it was not rebutted to the appellant assessee. Therefore, in view of the principles of natural justice, we consider it deem fit to restore back the matter to the file of the Ld. CIT(A) to adjudicate the appeal afresh after considering the written submission and evidences filed on record and may be filed before him during the fresh proceedings is rebutted to remand report after granting sufficient opportunity of being heard to the assessee with a direction that the CIT(A) shall issue a Show Cause Notice and thereafter pass a reasoned order in accordance with law. Accordingly, the impugned order is set aside and matter remanded to CIT(A) for afresh adjudication on merits of the case as per Law.

10. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 07.08.2023

**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