

**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. 150/Asr/2023
Assessment Year: 2018-19

Sh. Raj Kumar,
Street No. 15, Last Chowk
Abohar 152 116, Punjab

[PAN: AHDPK 6214C]
(Appellant)

Vs. Asstt. Commissioner of Income
Tax, Circle-1, Bathinda

(Respondent)

Appellant by : Sh. Sudhir Sehgal, AR
Respondent by : Sh. Anupam Kant Garg, CIT- DR
Date of Hearing : 13.09.2023
Date of Pronouncement : 15.09.2023

ORDER

Per Dr. M. L. Meena, AM:

The captioned appeal has been filed by the assessee against the order of the Id. CIT(A) National Faceless Appeal Centre (NFAC), Delhi dated 16.03.2023 in respect of Assessment Year 2018-19.

2. There was a short delay of 4 days in filing the appeal was requested to be condoned and to allow the appeal on merits. The Id. DR has no objection to the request of condonation of short delay in filing the appeal. Accordingly, the short delay of 4 days is condoned and appeal is admitted on merits.

3. At the outset, the Id. counsel for the assessee submitted that the Id. CIT(A) has passed the order ex-parte qua the assessee merely stating vide para 5.3 that the appellant has been offered sufficient and reasonable opportunity to present his case. However, the appellant has been negligent to pursue this appeal. The counsel further submitted that the Id. CIT(A) has upheld the finding of the Assessing Officer without considering the details submission filed before the AO (APB Pg. 1 to 35). The counsel argued that the impugned order passed by the Id. CIT(A) in arbitrary manner while upholding the validity of the assessment order particularly when the Id. AO failed to discharge mandatory and legal requirement for invoking provisions of section 69A and 68 of the Act. He further argued that the Id. CIT(A) has not even issued show cause notice for taking adverse view against the appellant assessee is violation of principles of natural justice. Accordingly, he pleaded that the matter may be remanded back to the file of the Id.

CIT(A) to adjudicate afresh by taking a lenient and holistic view considering the fact that the assessee being illiterate and had no means and knowledge and had not access to electronic communication mode. In support he placed reliance on the case law on the issue that lack of knowledge of electronic services of notice is a sufficient cause, for non compliance as under:

*“That Delhi Bench of the Hon’ble ITAT in the case of **Egis international S.A. vs. ACIT (ITA No. 1663/Del/2021) A.Y. 2016-17, vide order Dt. 03.08.2023**, while dealing with the identical facts has restored the matter back to the file of the CIT(A) NFAC for de novo adjudication on merits after allowing reasonable opportunity of hearing to the assessee because it was brought on record before the Hon’ble Bench that the notices sent to the e-mail of the employee did not reach the assessee and the non-compliance was not deliberate.”*

4. Per contra, the Id. DR supported the impugned order, contending that the sufficient opportunities of hearing have been granted to the appellant assessee. However, he has no objection in restoring the matter to the file of the Id. CIT(A) to grant one more opportunity in view of principles of natural justice. :

5. We have heard both the sides and perused the material on record and the impugned order. Admittedly, the Id. CIT(A) has passed the impugned order ex-parte qua the assessee by merely stating that the appellant has granted sufficient and reasonable opportunity to represent his

case, however, the appellant has been negligent to pursue this appeal before him. Thus, the Id. CIT(A) has rejected the appeal of the appellant assessee in limine without deciding the matter on merits of the case particularly ignoring the submissions filed before the Assessing Officer (APB Pg. 1 to 35) in view of principles of natural justice. We consider it deem fit to remand the matter back to the file of the Id. CIT(A) to adjudicate the matter afresh on the issues raised by the appellant assessee after granting sufficient opportunity of being heard and considering the material evidence filed on record and to be filed in the course of afresh proceedings. At the same time, the appellant assessee is directed to cooperate in the fresh proceedings by attending and filing the requisite information in compliance to the queries raised by the Id. CIT(A). Accordingly, the matter is remanded back to the file of the Id. CIT(A) for fresh adjudication as per law.

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

Order pronounced in the open court on 15.09.2023

Sd/-
(Anikesh Banerjee)
Judicial Member

GP/Sr.PS

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

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