

**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. No. 257/Asr/2023
Assessment Year: 2017-18

Om Parkash HUF
C/o M/s Ajit Singh Om Parkash,
Dana Mandi, Nawanshahr

Vs. Income Tax Officer,
Ward Nawanshahr

[PAN: AAAHO 5717J]

(Appellant)

(Respondent)

Appellant by : None (Written submission)
Respondent by : Sh. Ravinder Mittal, Sr. DR

Date of Hearing : 30.10.2023
Date of Pronouncement : 31.10.2023

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 11.08.2023 in respect of Assessment Year: 2017-18 challenging therein confirmation of finding of the Assessing Officer in violation of

principles of natural justice without being granted adequate opportunity of being heard.

2. None appeared for the assessee, however a written submission was filed. Considering the written submission and after hearing the Id. DR the appeal is adjudicated on merits. Admittedly, the Id. CIT(A) has rejected the appeal ex-parte qua the assessee applying Multiplan. Although, he has mentioned that various notices have been issued to the appellant assessee which remained un-complied, however, he did not mention the fact regarding service of these notices.

3. In our view, assessee deemed to be granted one more opportunity and therefore, 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)

4. 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 ex parte proceedings qua the assessee. It is seen that aggrieved with the ex parte 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.”

5. In view of principles of natural justice, we consider it deem fit to remand back the matter to the file of the Id. CIT(A) to grant one more opportunity of being heard to the assessee with valid service of notice to enable him to participate in the appellate proceedings. The appellant- assessee is directed to cooperate in the fresh proceedings before the Id. CIT(A) and furnish all the required information to the satisfaction of the Id. CIT(A) for adjudication of the ground of appeal raised before him. Accordingly, the matter is remanded back to the Id. CIT(A) to adjudicate afresh.

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

Order pronounced in the open court on 31.10.2023

Sd/-
(Anikesh Banerjee)
Judicial Member

GP/Sr.PS

Copy of the order forwarded to:

(1)The Appellant:

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

- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T.

True Copy

By Order