

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "बी", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "B", CHANDIGARH

श्री आकाश दीप जैन, उपाध्यक्ष एवं श्री विक्रम सिंह यादव, लेखा सदस्य
BEFORE: SHRI. AAKASH DEEP JAIN, VP & SHRI. VIKRAM SINGH YADAV, AM

आयकर अपील सं. / ITA NO. 222/Chd/2023
निर्धारण वर्ष / Assessment Year : 2023-24

Vardhman Mahaveer Welfare Society Hira Bagh Adjoining City Mall Rajpura Road, Patiala, Punjab	बनाम	The CIT(E) Chandigarh
स्थायी लेखा सं. / PAN NO: AAGAV3305E		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारित की ओर से / Assessee by : Shri Ashok Goel, C.A
राजस्व की ओर से / Revenue by : Smt. Kusum, CIT DR

सुनवाई की तारीख / Date of Hearing : 18/01/2024
उद्घोषणा की तारीख / Date of Pronouncement : 23/01/2024

आदेश / Order

PER VIKRAM SINGH YADAV, A.M. :

The present appeal has been preferred by the assessee against the order passed by the Id. Commissioner of Income Tax (Exemptions), Chandigarh dated 01/12/2022.

2. The assessee in this appeal has contested the action of the Id.CIT(E) in rejecting the application of the assessee for registration u/s 12AB of the Income Tax Act, 1961 (in short 'the Act').

3. At the outset, the Id. Counsel for the assessee has invited our attention to the impugned order of the Id. CIT(E) to submit that the same is an ex-parte order. He has submitted that the Id. CIT(E) has summarily rejected the application of the assessee without giving any opportunity of hearing to the assessee to present its case. He has submitted that no notice of date of hearing

was served by the Id. CIT(E), either through physical mode, through e-mail or registered post etc. That the notice of date of hearing was allegedly uploaded on Income Tax Portal and the assessee was not aware of uploading of any such notice regarding date of hearing. It was further submitted that the assessee has sought information under RTI wherein it was stated that "all notices/orders/letters issued by AO, CPC or any other income tax authority are transmitted electronically in e-proceedings module on e-filing portal under respective user ID on the date of issue of such notices/order/letters. Referring to Rule 127(2)(b), it was submitted that for communication delivered or transmitted electronically, it is essential that the same be addressed at the email address of the assessee and which has not happened in the instant case. It was accordingly submitted that no service of notice was ever affected on the assessee and therefore, in interest of justice, the assessee be allowed an opportunity to represent its case and the matter be remanded to the file of Id CIT(E) to decide the same afresh after providing opportunity to the assessee.

4. The Id. DR has relied on the order of the Id CIT(E), at the same time, has not expressed any reservation whether the matter is remitted back to the file of the Id CIT(E) for fresh consideration.

5. We have heard the rival contentions. Merely uploading of information about the date of hearing on the Income Tax Portal is not an effective service of notice as per the provisions of Section 282 of the Income Tax Act read with Rule 127(2)(b) of Income tax Rules. The impugned order of the Id. CIT(E) is, therefore, not sustainable in the eyes of law. The same is hereby set aside with a direction to the Id. CIT(E) to decide the appeal of the assessee afresh after giving proper and adequate opportunity to the assessee to present its case. The Id. CIT (E) will serve notice of hearing on the assessee through physical mode as well as

through electronic mode on the email address provided by the assessee. The assessee will participate in the proceedings and submit necessary information and documentation as called for and as advised.

6. The appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open Court on 23/01/2024

Sd/-

आकाश दीप जैन
(AAKASH DEEP JAIN)
उपाध्यक्ष / VICE PRESIDENT

Sd/-

विक्रम सिंह यादव
(VIKRAM SINGH YADAV)
लेखा सदस्य/ ACCOUNTANT MEMBER

AG

Date: 23/01/2024

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar