

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH
HEARING THROUGH: VIRTUAL MODE
श्री संजय गर्ग, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य
BEFORE: SHRI. SANJAY GARG, JM & SHRI. VIKRAM SINGH YADAV, AM

आयकर अपील सं. / ITA NO. 311/Chd/ 2023
निर्धारण वर्ष / Assessment Year : 2014-15

Shri Gagan Suri C/o Surinder Mahajan & Associates, 74, Vijay Nagar, Jalandhar	बनाम	The ACIT Panchkula Circle Panchkula
स्थायी लेखा सं./PAN NO: ALDPS3238A		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारित की ओर से/Assessee by : Shri Surinder Mahajan, CA
राजस्व की ओर से/ Revenue by : Shri Rohit Sharma, CIT DR

सुनवाई की तारीख/Date of Hearing : 18/12/2023
उद्घोषणा की तारीख/Date of Pronouncement : 27/02/2024

आदेश/Order

PER VIKRAM SINGH YADAV, A.M. :

This is an appeal filed by the Assessee against the order of the Ld. CIT(A), NFAC, Delhi dt. 29/03/2023 pertaining to Assessment Year 2014-15 wherein the assessee has taken the following revised grounds of appeal:

1. "That Learned Commissioner of Income Tax, ('Ld. CIT') has grossly erred in law in refusing to condone delay in filing appeal by concluding that no sufficient cause for delay in filing appeal has been established by the assessee. Conclusion drawn by the Learned Commissioner of Income Tax, ('Ld. CIT') is illegal and bad in law.
2. That on facts and circumstances of the case, impugned assessment framed u/s 143(3) r.w.s. 144 of the Act is illegal and bad in law since neither notice u/s 148 of the Act nor notices u/s 142(1) of the Act dated 23/08/2018 and 28/08/2018 have ever been served on the assessee.
3. That reassessment proceedings initiated by the Ld. Assessing Officer for verification of transactions of the assessee with certain firms is illegal and bad in law since provisions of section 147/148 of the Act cannot be invoked for verification purposes. Also assessment framed by making additions of items unconnected with escapement for which notice u/s 148 of the Act has been issued makes the assessment framed illegal and bad in law.

4. That assessment framed u/s 143(3) r.w.s. 144 of the Act is illegal and bad in law since assessee had never filed any return in response to notice u/s 148 of the Act. Assessment framed u/s 143(3) r.w.s. 144 of the Act for non est return is illegal and bad in law.

5. That on facts and circumstances of the case, Ld. Assessing Officer has grossly erred in law in making addition of Rs. 4,24,64,00,000/- u/s 28(iv) of the Act, being alleged amount siphoned off from NSEL. Addition made of Rs. 4,24,64,00,000/- u/s 28(iv) of the Act is illegal and bad in law since monetary benefit or perquisite cannot be taxed by invoking provisions of section 28(iv) of the Act.

6. That on facts and circumstances of the case, Ld. Assessing Officer has grossly erred in law in making addition of Rs. 3,69,000/- u/s 68 of the Act being deposits in various bank accounts. Addition made u/s 68 of the Act on account of deposits in bank accounts is illegal and bad in law.

7. That on facts and circumstances of the case, Ld. Assessing Officer has grossly erred in law in making addition of Rs. 62,19,130/- being alleged bogus expenditure. Addition made is illegal and bad in law.

8. That on facts and circumstances of the case, Ld. Assessing Officer has grossly erred in law in making addition of Rs. 10,85,000/- u/s 68 of the Act being addition to the capital account. Addition made is illegal and bad in law.

9. That on facts and circumstances of the case, Ld. Assessing Officer has grossly erred in law in making addition of Rs. 12,27,301/- being disallowance of loss claimed in profit and loss account. Addition made is illegal and bad in law.

10. That on facts and circumstances of the case, Ld. Assessing Officer has grossly erred in law in making addition of Rs. 61,06,836/- as per Para 15 of the assessment order whereas para 15 of the assessment order relates to initiation of penalty u/s 27 IF of the Act.

11. That the assessee requests for leave to add or annex any other grounds of appeal before the appeal is heard or disposed off."

2. During the course of hearing, the Ld. AR submitted that the Ld. CIT(A) has dismissed the appeal filed by the assessee holding that no sufficient cause for delay in filing the appeal has been established by the assessee. It was submitted that the appeal has been dismissed at the very threshold without condonation of delay for which there was sufficient cause and there is no finding recorded by the Ld. CIT(A) on the merits of the case.

3. In this regard, our reference was drawn to the affidavit furnished by the assessee before the Ld. CIT(A), NFAC, Delhi wherein the assessee has explained the reasons for the delay in filing the present appeal which was on account of various Court cases which have been initiated against the assessee and wherein the matter have been pending adjudication before the various Courts across the country. It was accordingly submitted that the assessee was under severe pressure to attend the various Courts proceedings at various places across the country and there was no deliberate reason for not filing the appeal in time before the Ld. CIT(A),NFAC as the assessee shall not

gain any benefit or derive any advantage by delayed filing of the appeal. It was further submitted that because of the various Courts cases, the assessee was under severe mental pressure and had gone in depression and which has also resulted in delay in filing of appeal before the Ld. CIT(A). It was accordingly submitted that there was a reasonable cause for the delay in filing of the appeal and therefore the appeal so filed by the assessee before the Ld. CIT(A) may be condoned and matter may be set aside to the file of the Ld. CIT(A) to decide the same on merits of the case.

4. Per contra, the Ld. CIT/DR has relied on the order of the Ld. CIT(A) and submitted that merely because the assessee has Court cases pending before the various Courts across the country, the same cannot be an excuse and the reason for not attending to the tax proceedings and that to, in term of non-filing the appeal against the order passed by the AO wherein the huge demand has been raised on the assessee. It was accordingly submitted that there is no reasonable cause for the delay in filing the appeal before the Ld. CIT(A) and therefore the findings of the Ld. CIT(A) in this regard may be confirmed.

5. We have heard the rival contentions and perused the material available on the record. We find that the assessee's prayer is emerging in the context of the first ground of appeal taken by him wherein he has challenged the action of the Ld. CIT(A) in refusing to condone the delay in filing the appeal. It is an admitted fact as apparent from the affidavit placed on record and not in dispute that there are various Court cases which have been pending against the assessee before the various Courts across the country and the assessee is required to attend to the said court proceedings. Given the nature and number of cases pending against the case as apparent from the affidavit filed by the assessee, we find that it is likely that these matters are likely to have taken precedence over the present tax matter and secondly, being a case of an individual, it is a human nature which cannot be denied that where multiple proceedings are going on, it is likely that there would be some slippages in attending to the said proceedings. Further the assessee has also stated in his affidavit that he was suffering from various health issues on account of all these matters and Courts cases and which has not been disputed by the Ld. CIT/DR. Therefore in light of the peculiar

facts and circumstances of the case, we find that there was reasonable cause for the delay in filing the appeal before the Ld. CIT(A) and the delay so happened is hereby condoned and matter is set aside to the file of the Ld. CIT(A) to decide the same afresh after providing reasonable opportunity to the assessee.

6. Needless to say, the assessee can attend to the said proceedings before the Ld. CIT(A) and furnished necessary information and documentation as so advised and cooperate in timely completion of the said proceeding.

7. In the result, Ground No. 1 of the assessee's appeal is allowed in terms of above directions. Since we have set aside the matter to the file of the Ld. CIT(A), rest all grounds are therefore left open. Hence the same are dismissed as infructuous.

8. In the result, appeal of the Assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 27/02/2024.

Sd/-

संजय गर्ग
(SANJAY GARG)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-

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

AG

Date: 27/02/2024

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

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

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar