

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़  
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH

HEARING THROUGH: PHYSICAL MODE

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 Nos. 526 TO 528/Chd/ 2023  
निर्धारण वर्ष / Assessment Years : 2015-16, 2018-19 & 2019-20

Shri Kartik Budhiraja B-311, Basti Hazoor Singh Gali No-1, Fazilka	बनाम	The DCIT Central Circle-3 Ludhiana
स्थायी लेखा सं. / PAN NO: BCPVK8673B		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारित की ओर से/Assessee by : Shri Ashwani Kumar, C.A and  
Shri Aditya Kumar, C.A

राजस्व की ओर से/ Revenue by : Shri Rohit Sharma, CIT DR

सुनवाई की तारीख/Date of Hearing : 22/02/2024

उद्घोषणा की तारीख/Date of Pronouncement : 23/02/2024

**आदेश/Order**

**PER VIKRAM SINGH YADAV, A.M. :**

All the above appeals have been filed by the Assessee against the order of the Ld. CIT(A)-5, Ludhiana each dated 19/07/2023.

2. Since the issues involved in all the above appeals are common and were heard together therefore they are being disposed off by this consolidated order.

3. With the consent of both the parties, we shall take up appeal in ITA No. 526/Chd/2023 for the A.Y. 2015-16 as a lead case wherein the assessee has raised the following grounds:

1. That order passed u/s 250(6) of the Income Tax Act, 1961 by the Learned Commissioner of Income Tax (Appeals)-5, Ludhiana is against law and facts on the file in as much as he was not justified to decide the appeal ex-parte.

2. That the Learned CIT(A) was not justified in not deciding the appeal on merits.

3. That the order passed by the Learned Assessing Officer is non-est and bad in law in as much as the proceedings have not been conducted in the manner

*prescribed by the departmental instructions from time to time which are mandatory for compliance by the Learned Authorities particularly with respect to mentioning of Document Identification Number (DIN).*

*4. That assessment framed by the Learned Assessing Officer is without jurisdiction and thus, null and void.*

4. Briefly the facts of the case are that the assessee is an individual and belongs to M/s Vera Group of Muktsar. The assessee has not filed his original return of income for A.Y. 2015-16. A search and seizure operation u/s 132(1) was carried out at the residential / business premises of the assessee on 25/10/2018. During the course of search & seizure operation, various incriminating documents were found and seized. Thereafter, the case was centralized with DCIT, Central Circle-2, Ludhiana. Accordingly, notice under section 153A of the Act was issued to the assessee on 27/01/2020. Again, the case was transferred to DCIT, Central Circle-3, Ludhiana vide order u/s 127 of the Act bearing No. Pr. CIT(C)/Ldh/JB-II/Cent.52/2019-20/5971 dt. 27/01/2020. In response to the notice, the assessee filed its return of income on 06/03/2021 and declaring net taxable income of Rs. 2,16,780/-. Subsequently, notice under section 142 (1) dt. 09/02/2021 alongwith detailed questionnaire was issued and served upon the assessee electronically and also notice under section 143(2) was issued and served upon the assessee on 09/03/2021.

4.1 During the course of search proceedings certain documents has been seized from the residence of the assessee at B-311, St. No.1, Basti Hazoor Singh, Fazilka which contains the details of investment made in immovable properties. From the perusal of the seized document, the AO found that the assessee has advanced cash loan amounting to Rs. 1,95,000/- to Shri Surinder Kumar and the assessee has not filed his return of income under section 139(1) of the Income Tax Act, 1961 for the A.Y. 2015-16. The show cause notice under section 142(1) was issued to the assessee asking why the amount of cash loan advanced amounting to Rs. 1,95,000/- should not be considered as his unexplained income

and added to the income. In response the assessee filed its reply dt. 22/03/2021. The reply filed by the assessee was considered but not found acceptable to the AO. The AO added the amount of Rs. 1,95,000/- to the income of the assessee as unexplained investment of the assessee.

5. Against the said order, the assessee moved in appeal before the Ld. CIT(A) who has since sustained the said additions. During the course of hearing, the Id AR submitted that the order has been passed ex-parte qua the assessee and even on merits, no finding has been recorded by the Id CIT(A). It was submitted that during the course of appellate proceedings, the assessee did move adjournment application but the Id CIT(A) went ahead and decided the matter and dismissed the appeal on account of non-prosecution. It was submitted by the Id AR that the assessee may be provided one more opportunity of being heard and to file necessary submissions and the matter may accordingly be set-aside to the file of the Id CIT(A).

6. Per contra, the Ld. DR submitted that the assessee was issued several notices however there was neither any appearance nor any written submissions were filed and in view of the same, the matter has been decided by the Id CIT(A). It was submitted that where the Bench so decide, the Revenue has no objection where the matter is set-aside to the file of the Id CIT(A).

7. Heard the rival contentions and perused the material available on the record. Considering the facts and circumstances of the present case and the limited prayer for setting aside the impugned order to the file of the Id CIT(A) for deciding the same on merits, we deem it appropriate to set aside the matter to the file of the Ld. CIT(A) to decide the same afresh as per law after providing reasonable opportunity to the assessee.

8. Further, in respect of other two matters, as submitted by both the parties, the facts and circumstances of the case are identical to facts and circumstances of

the case in ITA No. 526/CHD/2023 and the same are also set-aside to the file of the Id CIT(A) to decide the same afresh as per law after providing reasonable opportunity to the assessee.

9. In the result, all the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open Court on 23/02/2024.

Sd/-

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

Sd/-

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

AG

Date: 23/02/2024

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. 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