आयकर अपीलीय अधिकरण,चण्डीगढ़ न्यायपीठ, चण्डीगढ़

IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, 'B', CHANDIGARH

BEFORE SHRI A.D. JAIN, VICE PRESIDENT &
SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER

आयकर अपील सं./ **ITA No. 555/CHD/2023**

निर्धारण वर्ष / Assessment Year : 2011-12

Shri Davinder Singh, S/o Shri Sampooran Singh, Village Saha, Ambala	Vs. बनाम	The ITO, Ward-1, Ambala
स्थायी लेखा सं./PAN No. BICPS1026H		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

(VIRTUAL HEARING)

निर्धरिती की ओर से/Assessee by : Shri Tej Mohan Singh, Advocate
राजस्व की ओर से/ Revenue by : Smt. Amanpreet Kaur, Sr. DR

सुनवाई की तारीख/Date of Hearing : 11.03.2024
उदघोषणा की तारीख/Date of Pronouncement : 12.03.2024

आदेश/Order

Per A.D. Jain, Vice President:

This is assessee's appeal against the order of the ld. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, dated 09.08.2023, for the Assessment Year 2011-12.

2. At the outset, it has been submitted by the ld. Counsel of the Assessee that the sole grievance of the Assessee is that the ld. CIT(A) has concluded the proceedings by passing an ex-parte order dated

9.8.2023 by dismissing the appeal in limine without discussion on merits; that the ld. CIT(A) has erred in upholding the addition made on account of cash deposit which is arbitrary and unjustified; and that the dismissal of the appeal ex-parte by the ld. CIT(A) is based on wrong appreciation of the facts. It has been submitted that the impugned order confirmed by the ld. CIT(A), is totally unfair, arbitrary and opposed to the facts of the case. In support of his aforesaid contentions, the Assessee has placed on record an Affidavit dated 20.02.2024, wherein it has specifically been stated that the Assessee did not receive any notice or SMS to represent the case on 17.12.2019, 15.1.2021, 3.7.2023 and 27.7.2023 though a mention thereof is made in the appellate order. It is submitted that the Assessee has a fair case on merits and, therefore, prayed that keeping in view the principles of natural justice, the Assessee may be given a reasonable opportunity of hearing of the appeal before the ld. Commissioner (Appeals) and the appeal may be directed to be decided on merits.

3. The ld. DR, on the other hand, relied on the orders of the lower authorities.

4. Heard. We have gone through the order of the ld. CIT (A) and find that the ld. CIT(A) has dismissed the appeal of the Assessee ex-parte by merely confirming the order passed by the Assessing Officer, without considering the material available on record, and also without

giving due opportunity of hearing to the Assessee. As such, an opportunity of hearing requires to be given to the Assessee to represent his case fully before the ld. CIT(A). Even otherwise, it is trite ['S. Velu Palandar Vs. DCIT', 83 ITR 683 (Mad.)] and incumbent on the authority to decide an appeal on merit in accordance with the principles of natural justice.

5. The ld. D.R., though, has placed reliance on the orders of the authorities below, she has no objection if the matter is remanded to the CIT(A) for adjudication afresh.

6. In view of the above, in the interest of justice, the matter is remitted to the file of the CIT(A), to be decided afresh on merit, in accordance with law, on affording due and adequate opportunity of hearing to the Assessee. The Assessee, no doubt, shall cooperate in the fresh proceedings before the CIT(A). All pleas available under the law shall remain so available to the assessee. Ordered accordingly.

7. In the result, for statistical purposes, the appeal is treated as allowed for statistical purposes.

Order pronounced on 12.03.2024.

Sd/-	Sd/-
(VIKRAM SINGH YADAV) **Accountant Member**	**(A.D. JAIN)** **Vice President**

"आर.के."

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