

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. 593/CHD/2023

निर्धारण वर्ष / Assessment Year : 2018-19

Shri Hardev Singh, Near New Mastuana Sahib, Magwal, Sangrur 148001	Vs. बनाम	The ITO, Ward, Sangrur
स्थायी लेखा सं./PAN No. DIDPS4227K		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

(VIRTUAL HEARING)

निर्धारिती की ओर से/Assessee by : Shri Sudhir Sehgal, Advocate  
राजस्व की ओर से/ Revenue by : Smt. Amanpreet Kaur, Sr. DR

सुनवाई की तारीख/Date of Hearing : 12.03.2024  
उद्घोषणा की तारीख/Date of Pronouncement : 13.03.2024

**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 04.08.2023, for  
the Assessment Year 2018-19.

2. At the outset, it has been submitted by the Id. Counsel for the Assessee that the sole grievance of the Assessee is that the Id. CIT(A) has erred in passing the order dated 04.08.2023 by confirming the action of the Assessing Officer in assessing the income of the Assessee at Rs. 50 lacs u/s 69A of the Act; that the notices were sent on the email address of the earlier Counsel, Shri Puneet Kumar, but the said Counsel did not inform the Assessee about the notices and did not file any submissions before the Id. CIT(A); that the Assessee is an agriculturist, an uneducated person and totally dependent upon his Counsel; and that as such, the Assessee was prevented by sufficient and reasonable cause in not making submissions before the CIT(A). It has further been submitted that the impugned order confirmed by the Id. CIT(A), by passing an ex-parte order, is totally unfair, arbitrary and unjustified. It is also submitted that the Assessee has a fair case on merits and that the Assessee will make the proper representation before the Assessing Officer concerned who, in the absence of proper representation, passed the order u/s 144 of the Act, which order was confirmed by the CIT(A). It is prayed that keeping in view the principles of natural justice, the Assessee may be given a reasonable opportunity of hearing of the appeal and the appeal may be directed to be decided de novo 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, under the mistaken impression that the Assessee had not responded to the notices issued and was not interested to pursue the appeal. It is settled law that the Assessee should not be made to suffer for the lapse of their Counsel. 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 13.03.2024

Sd/-

**(VIKRAM SINGH YADAV)**  
**Accountant Member**

Sd/-

**( 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