

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "बी", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "B", 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 NO. 561/Chd/2023
निर्धारण वर्ष / Assessment Year : 2011-12

Shri Surinder Singh Waraich C/o Shri Tejmoan Singh, Advocate # 527, Sector-10D, Chandigarh	बनाम	The ITO Ward-4, Patiala
स्थायी लेखा सं./PAN NO: AAIPW5764B		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Tejmoan Singh, Advocate
राजस्व की ओर से/ Revenue by : Shri Dharam Vir, JCIT, Sr. DR

सुनवाई की तारीख/Date of Hearing : 12/03/2024
उद्घोषणा की तारीख/Date of Pronouncement : 13/03/2024

आदेश/Order

PER VIKRAM SINGH YADAV, A.M. :

This is an appeal filed by the Assessee against the order of Ld. CIT(A)/NFAC, Delhi dt. 17/07/2023 pertaining to Assessment Year 2011-12.

2. The main grievance of the assessee in the present appeal relates to the ex-parte order passed by the Ld. CIT(A)/ NFAC, Delhi in violation of principles of natural justice.

3. Facts of the case in brief are that the assessee had filed his return of income declaring income of Rs. 1,50,220/- in response to notice u/s 148 of the Act on 03/05/2018. Thereafter notice under section 142(1) was issued calling for information and notice under section 143(2) of the Act has been issued. The assessee has submitted the requisite information as called for. During the course of assessment proceedings, the assessee was asked to explain the cash deposit of Rs. 38,65,600/-. In response the assessee filed its reply dt. 20/9/2018. The reply

were considered but not found acceptable to the AO and the total income amounting to Rs. 40,15,820/- was assessed by the AO

4. Being aggrieved, the assessee carried the matter to the Ld. CIT(A) who sustained the addition made by the Assessing Officer by passing the ex-parte order.

5. Now the assessee is in appeal before us.

6. The Ld. Counsel for the Assessee submitted that Ld. CIT(A) was not justified in passing the ex-parte order and confirming arbitrary addition made by the Assessing Officer. It was submitted that the assessee has since shifted to Canada and has not received the notices, hence, the same couldn't be responded to. It was submitted that the assessee be provided an opportunity to represent his case on merits and the matter may accordingly be set-aside to the file of the Ld CIT(A).

7. In his rival submissions, the Ld. Sr. DR supported the orders of the authorities below. At the same time, it was fairly submitted that the Revenue has no objection where the matter is set-aside to the file of the Ld CIT(A) to decide the same on merits of the case.

8. We have considered the submissions of both the parties and perused the material available on the record. In the present case, it is noticed that the Ld. CIT(A) simply stated that the assessee has not made any argument in the present proceedings on the basis of which the ground can be allowed and the assessee has clearly failed to discharge his basic burden of proof. Given that the assessee was unable to respond to the notices in view of the admitted position that he has shifted to Canada, keeping in view the principles of natural justice, we believe that the assessee deserve one more opportunity to represent his case and deem it appropriate to set aside the case back to the file of Ld.

CIT(A) to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of being heard to the assessee. Needless to say, the assessee shall co-operate in timely completion of the appellate proceedings and submitted necessary information/documentation as so advised and/or called for.

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

Order pronounced in the open Court on 13/03/2024.

Sd/-

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

Sd/

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

AG

Date: 13/03/2024

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