

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. 603/Chd/2023
निर्धारण वर्ष / Assessment Year : 2017-18

Harjit Singh House No. 101, Khasi Kalan, Ludhiana, Punjab-141015	बनाम	The ITO Ward-3(1), Ludhiana
स्थायी लेखा सं. / PAN NO: GYIPS3478C		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारित की ओर से / Assessee by : Shri Vipin Kumar, CA
राजस्व की ओर से / Revenue by : Smt. Amanpreet Kaur, Sr. DR

सुनवाई की तारीख / Date of Hearing : 13/03/2024
उद्घोषणा की तारीख / Date of Pronouncement : 15/03/2024

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. 11/08/2023 pertaining to Assessment Year 2017-18.

2. Brief facts of the case are that the Assessing officer, on the basis of information available on ITBA, noticed that the assessee had made certain cash deposits in his bank accounts amounting to Rs. 11,75,000/- during the period from 01.04.2016 to 31.03.2017 and out of which, an amount of Rs. 10,85,000/- was deposited during the demonetization i.e. from 09.11.2016 to 31.12.2016. As per the AO, the assessee has not filed his regular return of income as per provisions of section 139 of the Act and thereafter, a notice u/s 142(1) was issued on 16.03.2018 requiring the assessee to file his return of income. Subsequently, notice u/s 142(1) dated 07.08.2019 alongwith questionnaire was issued and

thereafter, the assessment was completed u/s 144 by making addition of Rs 11,75,000/-u/s 69A of the Act holding the same as unexplained deposits.

3. Against the order of the Ld. AO, the assessee went in appeal before the Ld. CIT(A), NFAC, Delhi, notices were issued and thereafter, the appeal of the assessee was dismissed due to non-prosecution.

4. Now the assessee is in appeal before us.

5. During the course of hearing, the Id. Counsel submitted that the appellant is a farmer and not an educated person. He is not at all well versed with computer work and he doesn't have access to any computer system. The department may have sent the notices electronically but in person notices were not received by the assessee. It was submitted that due to non-receipt of notice from department and due to lack of knowledge/understanding, he couldn't appear in assessment proceedings and had not made any submission before the ITO ward 3(l).

5.1 It was further submitted that the assessee received a call from the concern range of ITO ward 3(1) regarding the deposit of outstanding tax as per the order u/s 144 of Income Tax Act, 1961 and got to know that the Income Tax department had also send a notice of demand along with assessment order to his residential address through speed post. Then assessee had approached some person to provide a solution in this matter of outstanding demand and had filed the appeal before the CIT(A). The assessee was not aware about the submission of documents before the CIT(A) NFAC, Delhi on 07/01/2020 and after that, the world suffered the crisis of COVID-19 and there was total lockdown in the country.

5.2 It was further submitted that the Id CIT(A) NFAC, Delhi had started issuing notice on portal from 19.06.2023 for the submission of reply through portal which

were not received by the assessee through any speed post or registered post. The assessee is a farmer and not an educated person that he can check the income tax portal on regular basis. Further the CIT(A) NFAC, Delhi had issued the notice on portal for the submission of reply on 27.06.2023, 12.07.2023, 20.07.2023 and 27.07.2023 one after the another and which were again not received by the assessee. It was submitted that thereafter, the CIT(A) NFAC, Delhi had issued the impugned order u/s 250 of Income Tax Act, 1961 on ex-parte basis by confirming the action of Ld. AO ITO ward 3(1), Ludhiana.

5.3 It was submitted that there is no malafide or deliberate inaction on the part of the assessee and the latter is not going to gain anything from not attending to the proceedings. To meet the end of justice and to avoid the harassment of a bonafide assessee, 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 Id AO.

6. In his rival submissions, the Ld. Sr. DR supported the orders of the authorities below. At the same, the Sr. Dr didn't object where the matter is set-aside to decide on merits of the case.

7. We have considered the submissions of both the parties and perused the material available on the record. In the facts and circumstances of the case, we find that due to non-receipt of notices, the assessee was prevented from attending to the assessment and appellate proceedings and therefore, deserve an opportunity to represent his case on merits. Therefore, in the interest of justice and fair play, the matter is restored to the file of AO to decide the matter afresh in accordance with law after giving reasonable opportunity of being heard to the assessee. Needless to say, the assessee shall participate in the proceedings and submit necessary information/documentation as so advised/as called for by the AO.

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

Order pronounced in the open Court on 15/03/2024

Sd/-

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

Sd/-

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

AG

Date: 15/03/2024

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