

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, 'A', CHANDIGARH

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

आयकर अपील सं./ ITA No. 623/CHD/2023

निर्धारण वर्ष / Assessment Year : 2012-13

Gurpreet Singh, R/o 793, Krishna Colony, St No.6, Near Gurudwara Singh Sabha, Basti Jodhewal, Ludhiana	Vs. बनाम	The ITO, Ward 3(1), Ludhiana
स्थायी लेखा सं./PAN No. BEPPS4972B		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

(VIRTUAL HEARING)

निर्धारिती की ओर से/Assessee by : Shri Pankaj Bhalla, CA

राजस्व की ओर से/ Revenue by : Smt. Amanpreet Kaur, Sr. DR

सुनवाई की तारीख/Date of Hearing : 18.03.2024

उद्घोषणा की तारीख/Date of Pronouncement : 18.03.2024

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 31.05.2023, for the Assessment Year 2012-13.

2. Though numerous grounds of appeal have been raised by the Assessee but, 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 erred in passing the order dated 31.5.2023 in contravention of the provisions of Section 250 of the Income Tax Act, 1961; that the Id. CIT(A) concluded the proceedings by passing an ex-parte order without proper perusal of the assessment record and dismissed the appeal of the Assessee by confirming the addition made by the Assessing Officer; that the e-mail address mentioned in Form 35 was that of the previous legal Counsel and the Assessee had lost contact with that Counsel and was not in receipt of any of the notices or orders as a result thereof, the Assessee was unable to make submission in response to the notices; that the Assessee became aware of the initiation of the recovery proceeding on 31.8.2023, only when he received a phone call from Income Tax Department and thereafter the Assessee immediately engaged legal counsel to represent his case; that the Assessee has now updated the contact information, including e-mail address and phone number on the portal to ensure proper communication; and that the above mentioned discrepancies were a result of bonafide mistake and the Assessee did not willfully neglect his obligations in the appellate proceedings. 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. In support of its aforesaid contentions, the Assessee has placed on record an Affidavit dated 07.12.2023. 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 Id. Commissioner (Appeals) and the appeal may be directed to be decided on merits.

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

4. Heard. We have gone through the order of the Id. CIT (A) and find that the Id. CIT(A) has dismissed the appeal of the Assessee ex-parte by 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 notices sent on e-mail were served upon the Assessee whereas, the notices were never served by the Assessee due to change of the Counsel and Assessee's loss of contact with the previous Counsel, to whom notices through e-mails were sent. The Assessee further deposed that there was no willful intention on his part in non-replying to the notices. No material has been brought on record by the Id. DR to the contrary. As such, an opportunity of hearing requires to be given to the Assessee to represent his case fully before the Id. 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 Id. 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.

Order pronounced on 18.03.2024

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