

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. 650/CHD/2023

निर्धारण वर्ष / Assessment Year : 2017-18

Deepak Kumar C/o Ajay Jain and Co., SCO 80-81, 4 th Floor, Sector 17C, Chandigarh 160017	Vs. बनाम	The ITO, Ward-1, Kurukshetra
स्थायी लेखा सं./PAN No. AQBPK9902G		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

(HYBRID MODE)

निर्धारिती की ओर से/Assessee by : Shri Ajay Jain, CA

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

सुनवाई की तारीख/Date of Hearing : 19.03.2024

उद्घोषणा की तारीख/Date of Pronouncement : 01.04.2024

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 30.08.2023, for the Assessment Year 2017-18.

2. At the outset, it has been submitted by the ld. Counsel for the Assessee that the sole grievance of the Assessee is that the ld. CIT(A)

has erred in passing the order dated 30.08.2023 by upholding the addition made by the Assessing Officer without deciding the appeal on merit; that the Id. CIT(A) has confirmed the action of the Assessing Officer, who had framed assessment without any jurisdiction; that the Assessee had engaged the Counsel who applied for adjournment on 15.7.2023 and the Id. CIT(A) has allowed adjournment till 31.7.2023 but the written submissions could not be filed due to the fact that 31.7.2023 was the last date of filing of ITR for non-corporate or non-auditable cases; and that due to implementation of faceless appeal, the Counsel was not aware to avail opportunity given by CIT(A) on 11.8.2024 and the appeal of the Assessee was dismissed in the absence of the written submissions of Assessee. 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 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 matter be sent to the CIT(A) for fresh adjudication.

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 merely upholding the addition made by the Assessing Officer,

without considering the material available on record, and also without giving due opportunity of hearing to the Assessee. The plea taken by the Assessee that the Assessee could not file written submissions due to fact that 31.7.2023 was the closing date for filing of ITR and the Assessee was not aware about the practice of implementation of faceless appeal, appears to be a reasonable cause. 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 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 01.04.2024.

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