आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "बी" , चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "B", CHANDIGARH

HEARING THROUGH: PHYSICAL MODE

श्री विक्रम सिंह यादव, लेखा सदस्य एवं श्री परेश एम. जोशी, न्यायिक सदस्य
BEFORE: SHRI. VIKRAM SINGH YADAV, AM & SHRI. PARESH M. JOSHI, JUDICIAL MEMBER

आयकर अपील सं./ ITA NO. 594/Chd/2023
निर्धारण वर्ष / Assessment Year : 2012-13

Shri Dharminder Singh Bhai Ka Pishore, PO-Chajjali Punjab-148030	बनाम	The ITO Ward- Sunam
स्थायी लेखा सं./PAN NO: EAHPS7618B		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

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

सुनवाई की तारीख/Date of Hearing : 24/04/2024
उदघोषणा की तारीख/Date of Pronouncement : 30/04/2024

आदेश/Order

PER PARESH M. JOSHI, J.M. :

This is an appeal filedl by the Assessee who is an individual taxpayer having residential status as that of a person resident in India.

2. The Assessee is aggrieved by DIN &Order No. ITBA/NFAC/5/250/2023-24/1054608247(1) for A.Y. 2012-13 dated 26/07/2023 which was passed by the Ld. CIT(A) at NFAC Delhi under section 250 of the Income Tax Act, 1961. The said appeal was dismissed by the Ld. CIT(A) by passing the aforesaid order dt. 26/07/2023 which is hereinafter referred to as the impugned order dt. 26/07/2023. Therefore the present second appeal under section 253 of the Income Tax Act, 1961, before us, against the impugned order of Ld. CIT(A) dt. 26/07/2023.

3. The assessee is an individual and during the year the assessee had made cash deposit of Rs. 30,22,375/-in his Saving Bank Account but the assessee has not filed his return of income for the A.Y. 2012-13. Based on the information available on the record, the case was reopened by issuing notice under section 148 dt. 27/03/2019 after the approval of Competent Authority.

4. In response the assessee herein did not file his return of income. Consequently the assessment order under section 144 r.w.s 147 was passed by the AO on 16/12/2019 assessing the total income at Rs. 30,49,212/- treating the cash deposits and interest as unexplained money under section 69A of the Act.

5. The assessee being aggrieved by the aforesaid order of AO dt. 16/12/2019 preferred first appeal mainly on the ground that AO order dt. 16/12/2019 is exparte order u/s 144 of the Income Tax Act without giving sufficient opportunity of being heard. The AO ought not to have made addition of Rs. 30,22,375/-.

6. Before the Ld. CIT(A) too despite filing an appeal the assessee did not appear. The notices were served on registered email repeatedly from 25/01/2021 till 07/07/2023, consequently the Ld. CIT(A) passed the impugned order dismissing the appeal.

7. Being aggrieved by the aforesaid impugned order dated 26/07/2023 the assessee has raised the following grounds of appeal challenging the legality, validity of the impugned order on following grounds:

> 1 That the impugned order passed by the Ld. A.O. is patently illegal and arbitrary as tax demand has been confirmed without verifying the fact that the appellant has filed its ITR and reported its income which is exempted in nature.
>
> 2 That on the facts and circumstances of the case whether the Ld. CIT(A) is justified to dismiss the appeal and confirm the demand in ex-parte manner as the Counsel of the Appellant was suffering from medical ailments and unable to join the proceedings.
>
> 3. That on the facts and circumstances of the case the orders passed by Ld. C1T(A) is patently illegal and non-maintainable as same has been passed merely by relying on the borrowed information and wjthout doing any independent enquiry or any application of mind.
>
> 4 That the impugned order passed by the Ld. C1T(A) is highly unreasonable unjustified and totally against the cardinal principles of natural justice as it has been passed behind the back of the appellant.
>
> 5 That the impugned order passed by the Ld. A.O. is patently illegal and arbitrary as tax demand has been confirmed without verifying the

fact that the appellant has filed its ITR and reported its income which is exempted in nature.

6. That the appellant seeks permission to add OR amend any grounds of appeal at the time of hearing and further to summit proper explanations in support of the additions made at the time of hearing.

8. The physical hearing took place today i.e; 24/04/2024 before us, when learned Counsel Shri Peyush Pruthi contended before us that at original stage order is ex-parte and in violation of the principles of natural justice. No notice was received by the assessee in the original proceedings below. Upon a query by the Bench why nobody appeared at CIT(A) stage he promptly replied that no notice was received. We then called upon him to furnish email, details, address and mobile no. of the assessee in response he has filed an application giving full details as sought by us. He has also avered that the details too would be uploaded on Income Tax portal soon. The Ld. DR too agreed with the submissions of the Ld. Counsel for the assessee.

9. In the foregoing we set aside the impugned order of the Ld. CIT(A) dt. 26/07/2023 and the matter is remanded back to the file of the AO to pass a fresh order in accordance with law after giving assesse full and complete opportunity to present his case including opportunity of being heard.

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

Order pronounced in the open Court on 30/04/2024.

Sd/-	Sd/-
विक्रम सिंह यादव	**परेश एम. जोशी**
(VIKRAM SINGH YADAV)	**(PARESH M. JOSHI)**
लेखा सदस्य/ ACCOUNTANT MEMBER	**न्यायिक सदस्य / JUDICIAL MEMBER**

AG

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