

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

HEARING THROUGH: HYBRID HEARING

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. 554/Chd/2023
निर्धारण वर्ष / Assessment Year : 2019-20

Shri Sukhjit Singh Sri Muktsar Sahib M/s Neo Metro English Institute, Near Bus Stand, Vishal Nagar	बनाम	The DCIT Ludhiana
स्थायी लेखा सं. / PAN NO: FEBPS2116R		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Ashwani Kumar, C.A
राजस्व की ओर से / Revenue by : Shri Dharam Vir, JCIT, Sr. DR

सुनवाई की तारीख / Date of Hearing : 24/04/2024
उदघोषणा की तारीख / Date of Pronouncement : 01/05/2024

आदेश / Order

PER VIKRAM SINGH YADAV, A.M. :

This is an appeal filed by the Assessee against the order of the Ld. CIT(A)-5, Ludhiana dt. 12/07/2023 pertaining to Assessment Year 2019-20.

2. In the present appeal Assessee has raised the following grounds:

1. *That order passed u/s 250(6) of the Income Tax Act, 1961 by the Learned Commissioner of Income Tax (Appeals)-5, Ludhiana is against law and facts on the file in as much as he was not justified to decide the appeal ex-parte.*
2. *That the Ld. CIT(A) was not justified in not deciding the appeal on merits.*
3. *That assessment framed by the Learned Assessing Officer is without basis and thus, deserves to be set aside.*

3. Briefly the facts of the case are that the assessee is an individual and is running an Educational Institution by the name of Neo Metro English Institute. The assessee has filed his return of income for the A.Y. 2019-20 on 31.08.2019 declaring income of Rs.30,60,350/-. A survey u/s 133A of the Income-tax Act,

1961 was carried out at the business premise of the assessee on 25.02.2019. During the course of survey operation, various documents relates to the assessee were found and impounded. The case of the assessee for the A.Y. 2019-20 was selected under compulsory scrutiny and notice under section 143(2) was issued on 24/09/2020 and thereafter, the assessment was completed u/s 143(3) wherein amount of Rs. 5,59,250/- was considered as unexplained investment made by the assessee and added to the income u/s 69B r.w.s. 115BBE of the Income-tax Act, 1961.

4. Against the order of the AO, the assessee went in appeal before the Ld. CIT(A). The Ld. CIT(A) stated that the notices were issued to the assessee from 24/05/2021 till 26/06/2023, but the assessee neither file any written submission nor attended the proceedings, thereafter the Ld. CIT(A) passed the impugned order dismissing the appeal.

5. Against the order of the Ld. CIT(A), the assessee came up in appeal before us.

6. During the course of hearing, the Ld. AR submitted that the Ld. CIT(A) passed the order *ex-parte* without deciding the appeal on merits of the case. It was submitted that the assessee be allowed one more opportunity to represent his case and he hereby gives an undertaking that the assessee shall not abuse this opportunity and will attend to the proceedings and the matter may accordingly be set-aside to the file of the Ld CIT(A).

7. Per contra, the Ld. DR relied on the orders of the lower authorities. It was submitted that the assessee has been allowed ample opportunity by the Ld CIT(A) but he has not availed the same. At the same time, the Ld DR fairly submitted that since the matter has not been decided on merits, he has no objection where the matter is set-aside to the file of the Ld CIT(A).

8. We have heard the rival contention and perused the material available on the record. In the facts and circumstances of the case, we are of the considered opinion that the matter has been decided *ex-parte qua* the assessee and that too, without going into merits of the case. Therefore, in the interest of justice, the assessee is allowed one more opportunity and the matter is restored to the file of Id. CIT(A) to decide the matter afresh in accordance with law after giving a reasonable opportunity of being heard to the assessee. The assessee, no doubt, shall cooperate in the proceedings before the CIT(A) and submission necessary/information as so advised.

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

Order pronounced in the open Court on 01/05/2024.

Sd/-

परेश एम. जोशी
(PARESH M. JOSHI)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-

विक्रम सिंह यादव
(VIKRAM SINGH YADAV)
लेखा सदस्य/ ACCOUNTANT 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. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar