

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

BEFORE: SHRI A.D.JAIN, VICE PRESIDENT AND
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. 342/CHD/2022

निर्धारण वर्ष / Assessment Year. : 2012-13

Shri Babu Singh, S/o Shri Kunda Singh, R/o 238/2, Ward No.09, Bislan Mohalla, Ratia, Fatehabad.	Vs	The Pr. CIT, Rohtak.
स्थायी लेखा सं./PAN /TAN No: DOYPS2992C		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Deepak Aggarwal, Advocate

राजस्व की ओर से/ Revenue by : Shri Rohit Sharma, CIT DR

तारीख/Date of Hearing : 08.05.2024

उदघोषणा की तारीख/Date of Pronouncement : 09.05.2024

PHYSICAL HEARAING

आदेश/ORDER

PER A.D.JAIN, VICE PRESIDENT

This is assessee's appeal for assessment year 2012-13 against the order dated 09.02.2022 passed by the Id. Pr. Commissioner of Income Tax, Rohtak [in short 'the PCIT'].

2. The assessee has raised the following ground of appeal:

“That the CIT was not justified in revising the order dated 22.11.2019 on the ground that the A.O. failed to make necessary and proper enquiry about deposit of cash in the bank account whereas as per the Assessee all the necessary documents justifying cash deposits in the bank account were submitted by the assessee and were duly considered by the AO.”

3. The facts of the case are that the assessee is an individual doing agricultural activities. No return of income was originally filed by the assessee. Since the assessee had deposited a sum of Rs.47,00,000/- in his savings bank account, the case was reopened u/s 147 of the Act vide notice u/s 148 of the Act, dated 29.03.2019. In compliance, the assessee filed the Income Tax Return, declaring an income of Rs.1,33,450/- + Agricultural income of Rs.8,54,752/-, on 21.11.2019. Consequently, assessment was completed u/s 143(3) r.w.s. 147 of the Act on 22.11.2019, accepting the returned income. The ld. PCIT, being not satisfied with the order of the AO, issued notice u/s 263 of the Act to the assessee, to explain the sources of the cash deposited in the bank account. In response to the notice dated 27.10.2021 issued u/s 263 of the Act, no reply was filed by the assessee, nor any adjournment was sought. The case was re-fixed for 28.01.2022 vide letter dated 21.01.2022, but on that date also, no written submission or adjournment request was received. Accordingly, the ld. PCIT set aside the assessment order passed by the AO on 22.11.2019. Against the said order of the ld. PCIT, the assessee has come up in appeal before this Tribunal.

4. We have heard the parties and have perused the material on record. At the outset, the ld. Counsel for the assessee has invited our attention to the impugned order of the ld.PCIT to submit that the same is an ex-parte order. He has submitted that the ld.PCIT has summarily rejected the application of the assessee without giving any opportunity of hearing to the assessee to present his case. He has submitted that no notice of the date of hearing was served on the assessee, either through the physical mode, or through e-mail, etc. The ld. Counsel for the assessee has requested that the assessee may be given proper and adequate opportunity of being heard to present his case.

5. The ld. DR has relied on the order of the ld. PCIT.

6. Considering the above facts and circumstances of the case, we deem it fit and appropriate that in the interest of justice, the assessee should be provided a reasonable and proper opportunity of being heard. Accordingly, the file is restored to the file of the ld. PCIT to decide the matter afresh in accordance with law after giving reasonable opportunity of being heard to the assessee. The assessee, no doubt, shall cooperate in the fresh proceedings before the ld. PCIT. All

pleas available under the law shall remain so available to the assessee.

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

Order pronounced on 09.05.2024.

Sd/-

Sd/-

(KRINWANT SAHAY)
ACCOUNTANTMEMBER

(A.D.JAIN)
VICE PRESIDENT

“Poonam”

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