

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

**BEFORE SHRI A.D. JAIN, VICE PRESIDENT &
DR KRINWANT SAHAY, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No. 137/CHD/2023

निर्धारण वर्ष / Assessment Year : 2010-11

Shri Rahul Limaye, S/o Shri Shankar Limaye, DT-18, Golf Green, Kolkata-70005	Vs. बनाम	The ITO, Ward-1(3), Ludhiana
स्थायी लेखा सं./PAN No: AEOPL2951D		
अपीलार्थी ./ Appellant		प्रत्यर्थी / Respondent

(HYBRID MODE)

निर्धारिती की ओर से/Assessee by : Sh. Abhishek Bansal, C.A.

राजस्व की ओर से/ Revenue by : Shri Dharamvir, JCIT, Sr.DR

सुनवाई की तारीख/Date of Hearing : 09.05.2024

उद्घोषणा की तारीख/Date of Pronouncement : 15.05.2024

आदेश/Order

Per Dr. Krinwant Sahay, A.M.:

The appeal in this case has been filed by the Assessee against the order dated 13.12.2022 of the ld. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, on the following grounds: -

1. *For that the order u/s 147/264 as passed by the Ld. AO and confirmed by the CII (A) NFAC is bad in law.*
2. *For that the Ld. CIT(A) erred in passing the appellate order in haste without providing sufficient and reasonable opportunity of being heard.*

3. *For that the Ld. CIT (A) erred in confirming the addition of Rs. 5,21,000/- made by Ld. AO ignoring the fact that the assessee have deposited the said cash out of advance received on account; of sale of agriculture land.*
4. *For that the Ld. CIT (A) erred in confirming the addition made by Ld. AO merely for the reason that the assessee has not submitted copy of sale agreement during the appellate proceedings. However the assessee has duly filed the copy of affidavit of buyer.*
5. *For that even otherwise, the defects if any in the written submission filed by the assessee was never intimated to the assessee for his rebuttal.*
6. *For that under the facts and circumstances of the case, the Ld. CIT(A) erred in assessing Rs. 5,21,000/- as unexplained money merely based upon his own surmises and conjectures.*
7. *Under the facts and circumstances of the case order passed by Ld. CIT (A) is not maintainable.*
8. *For that the appellant craves leave to add, alter or withdraw any ground/s of appeal on or before hearing of the appeal.*

2. During the proceedings, it was brought to the notice of the Bench that the appeal in this case has been filed after 30 days of the due date. In an Affidavit dated 24.01.2024 submitted by the Assessee, the Assessee has brought it on record that the appellate order for assessment year 2010-11, passed on 12.12.2022, was not received by the Assessee either through post or e-mail. The Bench heard the contention of the ld. Counsel of the Assessee and it has been decided

to condone the delay and as such, we proceeded to hear the appeal on merits.

3. The ld. DR also did not raise any objection on this issue.

4. The appeal on Ground Nos. 1, 7 and 8 are general in nature.

5. The issue raised through Ground Nos. 2 to 6 are that the ld. CIT(A) has passed the order without taking into consideration the submissions filed by the Assessee. In fact, the assessment order in this case was passed u/s 147 r.w.s 264 r.w.s. 144B of the Income Tax Act, 1961 (in short 'the Act'). The Assessee could not file the required evidences and details before the Assessing Officer that he wanted to put before the ld. CIT(A), NFAC as additional evidence.

6. The ld. CIT(A), NFAC did not consider the details filed by the Assessee on the ground that despite being specifically asked for, the Assessee deliberately did not file the required details and documents before the Assessing Officer and so the details filed before the ld. CIT(A) were rejected and, as such, not taken into consideration for deciding the appeal.

7. Aggrieved with the order of the ld. CIT(A), NFAC, this appeal is filed before us.

8. The ld. DR relied on the orders of the authorities below.

9. We have considered the contention of the ld. Counsel for the Assessee and that of the ld. DR. We find that the relevant and necessary documents in support of Assessee's claim have not been considered at any stage below. Therefore, 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. The appeal of the Assessee is allowed for statistical purposes.

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

Order pronounced on 15.05.2024.

Sd/-
(A.D. JAIN)
Vice President

“आर.के.”

Sd/-
(DR KRINWANT SAHAY)
Accountant Member

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