

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 म. जोशी, न्यायिक सदस्य
BEFORE: SHRI. VIKRAM SINGH YADAV, AM & SHRI. PARESH M. JOSHI, JM

आयकर अपील सं. / ITA NO. 592/Chd/2023
निर्धारण वर्ष / Assessment Year : 2012-13

Shri Gurmit Singh S/o Shri Sucha Singh C/o Parikshit Aggarwal, C.A H.No. 3035, Sector 27D, Chandigarh	बनाम	The ITO Ward 6(3) Mohali
स्थायी लेखा सं. / PAN NO: CWJPS6575D		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Parikshit Aggarwal, Advocate
राजस्व की ओर से / Revenue by : Smt. Amanpreet Kaur, Sr. DR
सुनवाई की तारीख / Date of Hearing : 08/05/2024
उदघोषणा की तारीख / Date of Pronouncement : 16/05/2024

आदेश / Order

PER VIKRAM SINGH YADAV, A.M. :

This is an appeal filed by the Assessee against the order of the Ld. CIT(A)/NFAC Delhi dt. 02/08/2023 pertaining to Assessment Year 2012-13.

2. In the present appeal, the issued raised by the assessee regarding the addition of Rs. 23,74,730/- on account of cash deposit and investment in properties. The AO in the assessment order held that the assessee had deposited cash of Rs. 14,60,000/-. The AO also noticed that the assessee had earned interest of Rs. 2,87,726/- from the deposit in the bank, and that the assessee had also given an advance of Rs. 6,27,000/- for the purchase of a property. The AO noted that the assessee is a non filer and had not declared any income. The AO not satisfied with the submission of the assessee added the above amount as income of the assessee. The notices were issued to the assessee and information were called for but no reply was filed by the assessee and the additions were made to the income of the assessee.

3. Against the order of the Ld. AO the assessee went in appeal before the Ld. CIT(A) who has sustained the order of the Ld. AO. .

4. Now the assessee is in appeal before us.

5. The Ld. Counsel for the Assessee submitted that Ld. CIT(A) was not justified in passing the ex-parte order and confirming arbitrary addition made by the Assessing Officer without providing reasonable opportunity of being heard. It was submitted that the notices have been uploaded on the IT Portal but have not been served on the assessee at his email address and therefore, in absence of the notices, the matter couldn't be represented before the Ld CIT(A). It was submitted that the assessee be provided an opportunity to represent his case on merits and the matter may accordingly be set-aside to the file of the Ld CIT(A).

6. In his rival submissions, the Ld. Sr. DR supported the orders of the authorities below. At the same time, it was fairly submitted that the Revenue has no objection where the matter is set-aside to the file of the Ld CIT(A) to decide the same on merits of the case.

7. We have considered the submissions of both the parties and perused the material available on the record. In the present case, it is noticed that the Ld. CIT(A) has passed an ex-parte order and the findings of the Ld. CIT(A) at para 5.1 read as under:

"5.1. It is pertinent that in order to decide this appeal in a timely manner a number of notices / communications through ITBA portal were sent to the appellant, viz. Communications dated 30.12.2020, 21.09.2022, 17.04.2023 and 20.07.2023. However, there evidently has been no response from the appellant till date. There is no gainsaying that once the appeal is filed by the appellant, it is obligatory on its part to purposefully and co-operatively pursue the same in a worthwhile manner, which the appellant has evidently failed to do. It clearly appears that the appellant's compliance or rather lack of it, the appellant has not even bothered to pursue this appeal in any productive manner. Hence, in view of the aforesaid total non-compliance / non prosecution of the instant appeal on the part of the appellant, the instant appeal is adjudicated and disposed off, as under, ex-parte, primarily on the basis documentation available on record."

8. Given the admitted position that the notices were not served on the email address of the assessee and have merely been uploaded on the IT Portal and keeping in view the principle of substantial justice and fair play, we believe that the assessee deserve one more opportunity to represent his case and deem it appropriate to set aside the case back to the file of Ld. CIT(A) to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of being heard to the assessee. Needless to say, the assessee shall co-operate in timely completion of the appellate proceedings and submitted necessary information/documentation as so advised and/or called for.

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

Order pronounced in the open Court on 16/05/2024

Sd/-

परेश म. 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. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar