

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

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

आयकर अपील सं./ITA No. 531/CHD/2023

निर्धारण वर्ष / Assessment Year : 2015-16

Satya, Krishna Bhawan, Shakrala, Malyana, Shimla (HP).	बनाम VS	The ITO, Ward 2, Shimla.
स्थायी लेखा सं./PAN /TAN No: ECRPS6025N		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Vishal Mohan, Sr. Advocate with
Shri Aditya Sood, Advocate

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

तारीख/Date of Hearing : 27.05.2024

उद्घोषणा की तारीख/Date of Pronouncement : 03.06.2024

HYBRID HEARING

आदेश/ORDER

PER A.D.JAIN, VICE PRESIDENT

This is assessee's appeal for assessment year 2015-16 against the order dated 10.08.2023 passed by the Id. CIT(A) NFAC, Delhi. The following grounds have been taken :

- That in the facts and circumstances of the case the Ld. Commissioner of Income Tax (Appeal) is not justified in passing an ex-parte order without giving a proper opportunity of being heard to the assessee/appellant.*
- That in the facts and circumstances of the case the Ld. Commissioner of Income Tax (Appeal) is not justified in confirming the addition of Rs.77,74,000/- on account of*

difference of stamp duty value and purchase consideration of land purchased by the AOP in which the assessee/appellant is a member and treated the same as income of the assessee under the head, "Income from other sources." ?

2. The brief facts of the case are that the assessee filed her return of income, for the year under consideration, declaring a total taxable income of Rs.2,25,590/- apart from agricultural income of Rs.53,465/-. The case of the assessee was selected for scrutiny within the meaning of Section 143(3) of the Income Tax Act, 1961 and a sum of Rs.77,74,000/- was added to the taxable income of the assessee u/s 56(2)(vii)(b)(ii), being difference between the sales consideration of the plot purchased by the AOP in which she is member and the value of the property adopted for stamp duty purposes.

3. Aggrieved, the assessee filed appeal before the ld. CIT(A).

4. The ld. CIT(A) issued notices fixing the hearing on 05.05.2021, 28.10.2022 and 20.07.2023 through ITBA Portal, but no response was received from the assessee. Accordingly, the ld. CIT(A) confirmed the order passed by the Assessing Officer making addition of Rs.77,74,000/-, against which the assessee is in appeal before this Tribunal.

5. We have heard the rival submissions and have perused the material available on record. The notices were issued on the ITBA Portal. The ld. Counsel for the assessee has stated that the email id of the office of the counsel being kdmohan75@yahoo.co.in had been given in Form No.35. It has been further stated that the notices issued gone unnoticed due to the fault of the office of the ld. Counsel for the assessee. Therefore, it has been prayed that the appeal of the assessee be set aside back to the file of the CIT(A). It is noticed that the assessee was issued various notices on ITBA Portal. The matter now stands covered by the decision of the Hon'ble jurisdictional High Court in the case of 'Munjali BSU Centre of Innovation and Entrepreneurship, Ludhiana through its authorized signatory Shri Bharat Goyal Vs Commissioner of Income Tax (E), Chandigarh', in CWP 21028-2023 (O&M), wherein, vide order dated 04.03.2024, their Lordships have held that the provisions of Section 282(1) of the Income Tax Act and Rule 127(1) of the Income Tax Rules, 1962, envisage that it is essential that before any action is taken, a communication of the notice must be in terms of these provisions; that these provisions do not make mention of communication to be "deemed" by placing the

notice on the e-portal of the Department; that an pragmatic view has always to be adopted in these circumstances; that an individual or a company is not expected to keep the e-portal of the Department open all the times so as to have knowledge of what the Department is supposed to be doing with regard to the submissions of forms, etc.; and that the principles of natural justice are inherent in the Income Tax provisions and the same are required to be necessarily followed. Accordingly, in the interest of justice, the file is restored to the file of Id. CIT(A) 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 CIT(A).

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

Order pronounced in the Open Court on 03.06.2024.

Sd/-

Sd/-

(KRINWANT SAHAY)
ACCOUNTANT MEMBER

(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