

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

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

आयकर अपील सं./ITA No.278/CHD/2024

निर्धारण वर्ष / Assessment Year : 2023-24

Sanatan Dharam Parcharak Sabha Regd., C/o S.D.P. College for Women, Fort Road, Near Power House, Daresi Ground, Ludhiana.	Vs	The CIT (Exemption), Chandigarh.
स्थायीलेखासं./PAN NO: AADTS5721K		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Ashwani Kumar, CA

राजस्व की ओर से/ Revenue by : Smt. Kusum Bansal, CIT, DR

सुनवाई की तारीख/Date of Hearing : 27.05.2024

उद्घोषणा की तारीख/Date of Pronouncement : 03.06. 2024

HYBRID HEDARING

आदेश/Order

PER A.D.JAIN, VICE PRESIDENT

The present appeal has been preferred by the assessee against the order passed by the ld. Commissioner of Income Tax (Exemptions), Chandigarh [hereinafter referred to as 'ld.CIT(E)'] dated 24.01.2024 pertaining to 2023-24 assessment year.

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

“That order passed under Section 12AA of the Income Tax Act, 1961 by the ld. Commissioner of Income Tax (Exemptions), Chandigarh is against law and facts on the file in as much as the appellant was prevented by a sufficient and reasonable cause in not responding to the impugned notices as the appellant did not receive any such notice.”

3. At the outset, the ld. Counsel for the assessee has invited our attention to the impugned order of the ld.CIT(E) to submit that the same is an ex-parte order. He has submitted that the ld.CIT(E) has summarily rejected the application of the assessee, without giving any opportunity of hearing to the assessee to present its case. He has submitted that no notice of date of hearing was served by the ld.CIT(E), either through physical mode or through e-mail etc. That the notice of date of hearing was allegedly uploaded on ITBA Portal and the assessee was not aware of uploading of any such notice regarding date of hearing.

4. The ld. DR could not rebut the aforesaid factual position.

5. We have heard the parties and have perused the material on record. It is found that various notices fixing the date of hearing were issued through ITBA Portal. The ld. Counsel for the assessee stated that no such notice of hearing was ever received. Merely uploading of information about the date of hearing on the Income Tax Portal is not an effective service of notice. The

matter now stands covered by the decision of the Hon'ble jurisdictional High Court in the case of 'Munjai 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 a 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, the impugned order of the Id.CIT(E) is, hereby set aside with a direction to the Id.CIT(E) to decide the appeal of the assessee afresh after giving proper and adequate opportunity to the

assessee to present its case. The assessee, no doubt, shall cooperate in the fresh proceedings before the CIT(E).

6. The appeal of the assessee is allowed for statistical purposes.

Order pronounced on 03.06.2024.

Sd/-

**(KRINWANT SAHAY)
ACCOUNTANT MEMBER**

Sd/-

**(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. आयकरआयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्डफाईल/ Guard File

आदेशानुसार/ By order,
सहायकपंजीकार/ Assistant Registrar