

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

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

आयकर अपील सं./ **ITA No.518/CHD/2023**

निर्धारण वर्ष / Assessment Year: 2012-13

Sh. Vijay Kumar Through Legal Heir Sh. Rakesh Kumar, Green Park Colony Bathinda Road, Muktsar Punjab-152 026	Vs. बनाम	The DCIT, Central Circle-2 Ludhiana
स्थायी लेखा सं./PAN No: AOMPK9208E		
अपीलार्थी/ APPELLANT		प्रत्यर्थी/ RESPONDENT

(HYBRID HEARING)

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

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

सुनवाई की तारीख/Date of Hearing : 28.05.2024

उद्घोषणा की तारीख/Date of Pronouncement : 03.06.2024

आदेश/Order

Per Dr. Krinwant Sahay, A.M.:

The appeal in this case has been filed by the Assessee against the order dated 19.07.2023 of the Ld. CIT(A)-5, Ludhiana for the Assessment Year 2012-13.

2. The Assessee has raised the following grounds of appeal:-

“1. That order passed u/s 250(6) of the Income Tax Act, 1961 by the Learned Commissioner of Income Tax (Appeals)-5, Ludhiana is against law and facts on the file in as such as he was not justified to decide the appeal ex-parte.

2. That the Learned CIT(A) was not justified in not deciding the appeal on merits.

3. That the order passed by the Learned Assessing Officer is non-est and bad in law in as much as the proceedings have not been conducted in the manner prescribed by the departmental instructions from time to time which are mandatory for compliance by the Learned Authorities particularly with respect to mentioning of Document Identification Number (DIN).

4. That assessment framed by the Learned Assessing Officer is without jurisdiction and thus, null and void.”

3. During the proceedings before us, at the very outset, the Counsel of the Assessee brought it to notice of the Bench that the assessment order in this appeal has been passed *ex-parte* and the appellate order has also been passed *ex-parte*. The Counsel of the assessee also contended that while passing the appellate order, the Ld. CIT(A) has not given his findings on merit, therefore, the Counsel of the Assessee requested to the Bench that this case may be remanded back to the file of the Ld. CIT(A) for fresh adjudication on merit.

4. The Ld. DR argued that *ex-parte* order of both authorities below, the A.O. and the Ld. CIT(A) shows that the assessee has not been co-operating with the Department, however, keeping in view the natural justice, this appeal may be remanded back to the file of Ld. CIT(A). Accordingly, this appeal i.e. ITA No.518/Chd/2023 is being remanded back to the file of Ld. 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.

5. In the result, the appeal filed by the Assessee is allowed for statistical purposes.

Order pronounced on 03.06.2024.

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

Sd/-
(DR KRINWANT SAHAY)
Accountant Member

“PK/Sr.Ps.”

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