

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

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

आयकर अपील सं./ITA No. 651/CHD/2023

निर्धारण वर्ष / Assessment Year : 2018-19

Anchana Sharma, Prop. Prime Fabrique Workshop, Village Saidpura Barwala Road, Derabassi, Distt. Mohali.	बनाम VS	The ACIT, Circle 1(1), Chandigarh.
स्थायी लेखा सं./PAN /TAN No: AYMP9143A		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri B.K.Nohria, CA

राजस्व की ओर से/ Revenue by : Smt. Amanpreet Kaur, Sr.DR

तारीख/Date of Hearing : 04.06.2024

उद्घोषणा की तारीख/Date of Pronouncement : 07.06.2024

PHYSICAL HEARING

आदेश/ORDER

PER A.D.JAIN, VICE PRESIDENT

This is assessee's appeal for assessment year 2018-19 against the order dated 24.08.2023 passed by the Id. CIT(A) NFAC, Delhi. The following ground of appeal has been taken :

1. That in the facts and in the circumstances of the case the Learned CIT (A) NFAC Delhi has erred in law and facts in upholding the contention of the learned A 0 in adding Rs.1,77,86,775/- under section 69A and 69C of the Income Tax Act, 1961 without affording proper opportunity.

2. The brief facts of the case are that the assessee is engaged in the business of manufacture and trade of fabricated metal products. The assessee filed her return of income electronically on 27.08.2018 declaring total income of Rs.4,17,50/-. The return was processed u/s 143(1) of the Income Tax Act. Subsequently, the case was selected for complete scrutiny on the issue of refund claim. Accordingly, notice u/s 143(2) of the Act was issued on 22.09.2020 and served upon the assessee fixing date of hearing on 07.10.,.2020. Thereafter, notice u/s 142(1) of the Act was issued with a detailed questionnaire. In response to the above notices, assessee furnished reply through electronic means on various dates to explain the cash deposits in banks. The Assessing Officer examined the explanation furnished by the assessee and he was not satisfied with the replies of the assessee. Accordingly, the Assessing Officer added a sum of Rs.177,86,775/- to the total income of the assessee, against which the assessee went in appeal before the ld. CIT(A).

3. As per the impugned order, the ld. CIT(A) issued notice to the assessee on 13.06.2023 for compliance on or before 28.06.2023, but there was no compliance by the assessee.

Again a letter dated 18.07.2023 was issued on ITBA Portal for compliance on 02.08.2023. On 02.08.2023, the assessee filed an application for adjournment, consequently the case was adjourned to 18.08.2023. Again assessee was issued letter dated 03.08.2023 through ITBA portal, but there was no compliance. Accordingly, the ld. CIT(A) decided the matter ex-part, on the basis of the material available on record. The ld. CIT(A) confirmed the additions made by the Assessing Officer and dismissed the appeal of the assessee.

4. Aggrieved 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 further stated that the notices issued gone unnoticed due to oversight and the assessee could not attend the proceedings. Therefore, it has been prayed that the appeal of the assessee be set aside back to the file of the Assessing Officer. 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 'Munjal 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 Assessing Officer 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 Assessing Officer.

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

Order pronounced in the Open Court on 07.06.2024.

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