

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

HEARING THROUGH: HYBRID 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. 599/Chd/2023
निर्धारण वर्ष / Assessment Year : 2013-14

Manish Mohan Jindal 12667, Vishawkarama Colony, Behind Sangeet Cinema, Partap Chowk, Ludhiana, Punjab-141003	बनाम	The ITO, Ward-5(1), Ludhiana
स्थायी लेखा सं. / PAN NO: ADLPM4769N		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri B.K. Sharma, Advocate
राजस्व की ओर से / Revenue by : Shri Dharam Vir, JCIT, Sr. DR
सुनवाई की तारीख / Date of Hearing : 04/06/2024
उद्घोषणा की तारीख / Date of Pronouncement : 07/06/2024

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. 04/08/2023 pertaining to Assessment Year 2013-14.

2. Briefly the facts of the case are that the assessee being an individual filed his return of income declaring total income of Rs. 2,23,470/-. Subsequently, the case of the assessee was reopened under section 147 and basis information that there were cash transactions amounting to Rs. 23,69,62,923/- in the two bank accounts maintained by the assessee with Dena Bank and in absence of any information on record which establishes the genuineness and source of cash deposit and the fact that the assessee has failed to furnish any documentary evidence to substantiate his claim before the ADIT(Inv)-1, Ludhiana during the course of investigation, reasons were recorded and notice under section 148 was issued to the assessee. Subsequently, the assessee filed his return of income on 30/03/2021 declaring total income of Rs. 4,53,370/- and

thereafter after calling for the necessary information and documentation and considering the assessee's explanation that the credit in the bank account were part of assessee's business of cheque discounting, amount 10% of such credit was estimated at Rs. 2,00,02,009/- and same was brought to tax as income of the assessee and as against the returned income of 4,53,370/-, assessed income was determined at Rs. 20,04,55,379/- which was subsequently rectified vide order passed under section 154 dt. 24/04/2023 at an assessed figure of Rs. 2,04,55,379/-.

3. Being aggrieved, the assessee carried the matter in appeal before the Ld. CIT(A) who has since sustained the said addition.

4. Against the said findings and direction of the Ld. CIT(A), the assessee is in appeal before us.

5. During the course of hearing, the Ld. AR submitted that a notice of hearing from the Officer of Ld. CIT(A)/ NFAC Delhi was received by the assessee online on 04/08/2023 whereby the assessee was required to comply with the same on or before 21/08/2023. It was submitted that when the assessee proceeded to upload his submission on 05/08/2023 in respect to various grounds of appeal taken in his appeal, it was noticed that the window for furnishing online response was already closed on 04/08/2023. Thereafter the assessee moved a grievance petition on the IT Portal on the very same day and thereafter, on 08/08/2023, the assessee received a response stating that the e-submission in their case has been closed and the order has been passed.

5.1 It was submitted that after receiving the above response to his grievance petition, the assessee came to know that his appeal for A.Y. 2013-14 has already been disposed off by the Ld. CIT(A) vide order dt. 04/08/2023 without appreciating the fact

that the notice scheduling the date of hearing was issued on 04/08/2023 for necessary compliance to be made on or before 21/08/2023. It was accordingly submitted that the assessee has been denied the necessary opportunity to represent his case before the Ld. CIT(A) as is evident from the facts that the day the notice for hearing was issued, the same day the impugned order has been passed by the Ld. CIT(A) and the assessee has been denied his legal right to represent his case and filed necessary submission. It was submitted that the assessee may be allowed an opportunity to represent his case and the matter may be set-aside to the file of the Ld CIT(A).

5.2 It was further submitted that even from perusal of the impugned appellate order, it may be noted that though the appeal number, particulars of assessment order and income assessed has been correctly mentioned, other facts and figures in the body of the appellate order relates to assessee's appeal for A.Y. 2011-12. It was submitted that for this reason as well, the impugned order is bad in law and the same therefore deserves to be set aside.

6. Per contra, the Ld. DR did not raise any specific objection where the matter is set aside to the file of the Ld. CIT(A) to decide the same afresh on merits after providing opportunity to the assessee.

7. After hearing both the parties and pursuing the material available on the record, we find that it is manifestly clear from the record that the impugned order has been passed by the Ld. CIT(A) on the same day when the notice scheduling hearing was issued i.e, on 4/08/2023 and without waiting for the response from the assessee for which the time period was provided till 21/08/2023. Further the Ld. AR has also pointed out certain factual inaccuracies which have crept in the body of the impugned order.

In light of the same, we deem it appropriate to set aside the matter back to the file of the Ld. CIT(A) to decide the same afresh after providing reasonable opportunity to the assessee.

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

Order pronounced in the open Court on 07/06/2024.

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