

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", 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 Nos. 862/Chd/2023
निर्धारण वर्ष / Assessment Year : 2012-13

Harminder Singh S/o Kartar Singh, 100, VPO- Chachrari, Jagraon, Punjab – 142026	बनाम	The ITO Ward-2 Jagraon
स्थायी लेखा सं. / PAN NO: BANPS2410N		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Amandeep Saxana, C.A
राजस्व की ओर से / Revenue by : Shri Manpreet Duggal, JCIT, Sr. DR

सुनवाई की तारीख / Date of Hearing : 27/06/2024
उद्घोषणा की तारीख / Date of Pronouncement : 27/06/2024

आदेश / Order

PER VIKRAM SINGH YADAV:

The present appeal has been preferred by the assessee against the order passed by the Id. Commissioner of Income Tax, NFAC, Delhi dated 28/11/2023.

2. At the outset, the Id. AR for the assessee has invited our attention to the impugned order so passed by the Id. CIT(A) to submit that the same is an ex-parte order. He has submitted that the Id. CIT(A) 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 Id. CIT(A), either through physical mode, through e-mail or registered post etc. That the notice of date of hearing was allegedly uploaded on Income Tax Portal and the assessee was not aware of uploading of any such notice regarding date of hearing. It was accordingly submitted that no service

of notice was ever affected on the assessee and therefore, in interest of justice, the assessee be allowed an opportunity to represent its case and the matter be remanded to the file of AO to decide the same afresh after providing opportunity to the assessee. It was submitted that the AO has passed the order u/s 144 wherein the additions have been made on account of unexplained cash deposits in the Axis Bank and it was submitted that similar additions were made in A.Y 2011-12 wherein the Coordinate Bench has remanded the matter back to the file of the AO for necessary examination and our reference was drawn to the findings of the Coordinate Bench in ITA No. 42/CHD/2023 which reads as under:

"13. Further, it is noted that the AO has passed the order u/s 144 read with Section 147 dated 14.12.2018 wherein an addition of Rs.49,40,750/- has been made for failure on the part of the assessee to provide necessary explanation in respect of the source of cash deposits in his bank account maintained with Axis Bank Ltd. Further, even before the Id. CIT(A), though notices have been issued which were not responded to and which has resulted in ex-parte order so passed by the Id. CIT(A). We, therefore, find that both before the AO as well as before the Id. CIT(A), the additions have been made and confirmed without considering the explanation which the assessee may like to submit in support of the source of the cash deposit in his bank account maintained with Axis Bank. Therefore, in the interest of substantial justice and fair play, we believe that the assessee deserves one more opportunity and the matter is, accordingly, aside to the file of the AO to decide the same afresh after providing reasonable opportunity to the assessee. Needless to say, the assessee shall file the necessary information and documentation in support of his claim explaining the source of the cash deposit and attend to the proceedings before the AO and ensure timely completion of the proceedings without seeking unnecessary adjournments in the matter."

3. The Id. DR has relied on the orders of the Id CIT(A), at the same time, has not expressed any reservation where the matters are remitted back to the file of the AO for fresh consideration.

4. We have heard the rival contentions and perused the material available on record. Merely uploading of information/notice scheduling the date of hearing on the Income Tax Portal is not an effective service of notice as per the provisions of Section 282 of the Income Tax Act read with Rule 127(2)(b) of Income tax Rules. The impugned order of the Id. CIT(A) is, therefore, not sustainable in the eyes of law and is hereby set aside and the matter is remitted to the file of the AO to decide the same afresh as per law in line with the directions of the Coordinate Bench for A.Y 2011-12 referred supra after providing reasonable opportunity to the assessee.

5. The appeals of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open Court on 27/06/2024

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. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar