

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

**BEFORE DR KRINWANT SAHAY, ACCOUNTANT MEMBER  
& SHRI PARESH M. JOSHI, JUDICIAL MEMBER**

आयकर अपील सं./ **ITA No. 674/CHD/2023**

निर्धारण वर्ष / Assessment Year: 2017-18

Ravinder Kumar Jain, Proprietor M/s Vardhman Cut Piece, Nai Basti, Main Road, Bhatinda 151001	Vs. बनाम	The DCIT, C.Circle-2, Ludhiana
स्थायी लेखा सं./PAN No: ABJPJ5347B		
अपीलार्थी/ APPELLANT		प्रत्यर्थी/ RESPONDENT

( Virtual Hearing )

निर्धारिती की ओर से/Assessee by : Sh. Sudhir Sehgal, Advocate  
राजस्व की ओर से/ Revenue by : Shri Rahul Sohu, JCIT, Sr. DR

सुनवाई की तारीख/Date of Hearing : 01.07.2024  
उदघोषणा की तारीख/Date of Pronouncement : 02.07.2024

**आदेश/Order**

**Per Dr. Krinwant Sahay, A.M.:**

Appeal in this case has been filed by the Assessee against the order dated 05.09.2023 of the Id. Commissioner of Income Tax (Appeals)-5, Ludhiana [herein referred to as 'the CIT(A)].

2. Grounds of appeal in this case are as under: -

1. *That the Ld. Commissioner of Income Tax (Appeals)-5 has erred in passing the ex-parte order and, thereafter, confirming the addition as made by the Ld. Assessing Officer.*
2. *That no notice of hearing was served/sent to the assessee and all the notices were sent on the email.id as nitishgars 1984@rediffmail.com, which was not majorly in operation, whereas the correct email.id as given on Form No.35 was btigargitr@gmail.com and, as such, non-attended to the hearings.*
3. *That, though, it was intimated to the assessee for hearing on 29.05.2023, for which, the adjournment was sought by the assessee and the last notice, which was fixed for hearing on 04.09.2023, no notice was served upon on the assessee and it was again sent on the non-functional email.id of the counsel, who did not intimate the assessee about the hearing.*
4. *That further, the Ld. CIT (A) has erred in not deciding the appeal on merits on the basis of facts on record and, thus, it is prayed that the case may, please be set aside to the file the Worthy CIT(A) for deciding the issue on merits.*
5. *That the appellant craves leave to add or amend the grounds of appeal before the appeal is finally heard or disposed off.*

3 Brief facts of the case are discussed as under:-

1. This is a case of an assessee who is an individual and deals in manufacturing and trading of school uniforms and other accessories of difference schools.
  2. A survey u/s 133A of the Act has been conducted at the business premises of the assessee on 17.02.2017.
  3. During the course of survey, a total excess stock of Rs.37,62,602/- has been identified along with some other incriminating documents and in order to avoid prolonged litigation and earn peace of mind, the assessee surrendered business income of Rs. 40,00,000/-.
  4. The same has been disclosed in the P/L Account as business income and taxes due on the same has been paid.
  5. However, the case of the assessee was reopened u/s 148 and the assessment order has been passed by treating the said surrender income as deemed unexplained income u/s 69B and the same has been charged to tax as per the provisions of section 115BBE.
4. At the very outset, during the proceedings before us, ld. Counsel for the Assessee brought it on record that total of 09 notices were sent by the ld. CIT(A) to the Assessee and all the notices were sent on wrong e.mail id. The ld. Counsel further stated that the reasons for non-appearance was due to the fact that the Counsel of the Assessee while filing the appeal had provided his own e.mail id but all the notices by the CIT(A)'s office was sent on the e.mail id of the earlier counsel, therefore, the Assessee could not comply with the Order. The ld.

Counsel further submitted that apart from sending notices on the wrong e.mail id, the ld. CIT(A) has not discussed the issue on merit and thus, has not passed the order on merit. Therefore, he requested that the appeal may be remanded back to the ld. CIT(A).

5. The Department had filed adjournment application, which was rejected.

6. We have considered the submissions of the ld. Counsel for the Assessee and we find that all the 09 notices sent by the CIT(A) was sent on the e.mail id of the earlier counsel of the Assessee, i.e., nitish\_garg1984@rediffmail.com whereas, while filing the appeal, the present Counsel of the Assessee has given his own e.mail id, i.e., btigargitr@gmail.com. We find that no notice had been sent on the e.mail id of the present counsel. We also find that the ld. CIT(A) has not passed the order on merit on the basis of material available on record, therefore, we are of the considered view that to meet the end of justice, the matter should be remanded back to the CIT(A). Accordingly, keeping in view the principles of natural justice, the appeal is restored back to the file of the ld. CIT(A) for adjudication afresh on merits, 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.

7. In the result, for statistical purposes, the appeal of the Assessee stands allowed.

Order pronounced on 02.07.2024.

**Sd/-**  
**(PARESH M. JOSHI)**  
**Judicial Member**

**Sd/-**  
**(DR KRINWANT SAHAY)**  
**Accountant Member**

“rkk”

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