

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. 106/CHD/2024

निर्धारण वर्ष / Assessment Year : 2017-18

Shri Jatinder Kumar Sachdeva, 255, Industrial Area -A, Ludhiana.	बनाम VS	The ITO, Ward VI(1), Ludhiana.
स्थायी लेखा सं./PAN /TAN No: ADTPS0993A		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Sudhir Sehgal, Advocate
राजस्व की ओर से/ Revenue by : Smt. Amanpreet Kaur, Sr.DR

तारीख/Date of Hearing : 05.08.2024

उदघोषणा की तारीख/Date of Pronouncement : 05.08.2024

HYBRID HEARING

आदेश/ORDER

PER A.D.JAIN, VICE PRESIDENT

This is assessee's appeal for assessment year 2017-18 against the order dated 09.11.2023 passed by the ld. CIT(A) NFAC, Delhi. The following grounds have been taken :

- 1. That the Ld. CIT (a) has erred in confirming the order of the AO, who had assessed the income at Rs. 2,05,28,000/-, vide order dated 26.12.2019.*
- 2. That the confirmation of the order of the AO by the Ld. CIT (A) is not proper because no notices by way of post or physical mode have been served upon the assessee or on his counsel.*
- 3. That the assessee came to know of the ex-parte order having been passed by the Ld. CIT (A) only when telephonic message was received from the office*

of the AO, Ludhiana, regarding the passing of the order by the Ld. CIT (A) ex-parte, for recovery of demand, and then the assessee came to know of the order having been passed by the CIT (A) and contacted some other counsel for filing the appeal against the order of the CIT (A).

4. That no reasonable opportunity was offered to the assessee or at times, the assessee was prevented by sufficient and reasonable cause in not filing the submissions before the Ld. CIT (A), which is highly regretted.

5. Notwithstanding the above-said grounds of appeal, the Ld. CIT(A) has erred in sustaining the addition of Rs. 2,05,28,000/-, Which is against the facts and circumstances of the case.

2. It is seen that the Registry has pointed out 29 days' delay in filing the appeal, for which, the assessee has filed an affidavit explaining the delay in filing the application before the Tribunal. He has also requested for condonation of delay. The contents of the application are reproduced hereunder :

I, Jatinder Kumar Sachdeva S/o Sh. KrishanLa! Sachdeva, Janpath Estate, South City, ludhiana do hereby solemnly state and affirm as under:-

1. That I was Prop. of M/s Jai Woollen, which was located at 255, Industrial Area A, Ludhiana.

2. That my case for Asstt. Year 2017-18 was taken up in scrutiny by the Assessing Officer but by that time my whole business was closed and I being the Proprietor was under financial crunch due to the fire in our factory premises.

3. That due to the above said reason, I was mentally upset and depressed and could not attend to the proceedings before the Assessing Officer/ CIT(A) and due to which, ex-parte order was passed by the Ld. Assessing Officer and CIT(A).

4. That the Ld. CIT(A) had, though, sent the notices of hearing on email.id of my earlier counsel but I was not made aware of the same since I had changed my address and also that I was not mentally stable due to the above said closure of my business premises

5. That the source of cash deposits in my bank account was on account of business and whole of the deposits cannot be taxed.

6. *That the appeal as filed after the order of CIT(A), is late by 28 days as under:-*

- | | |
|---|------------|
| I) Order of the CIT (A) is dated | 09.11.2023 |
| II) Appeal was to be filed by me on or before | 08.01.2024 |
| III) The appeal was filed on | 06.02.2024 |
| IV). The appeal is late by | 28 days |

7. *That this appeal was late since I had not received the copy of the order by physical mode and only when the department contacted me after the order of CIT(A) for the demand, then I got the copy of the order in the last week of January 2024 and downloaded the order of CIT(A) and I immediately engaged new counsel, Sh. Sudhir Sehgal for filing the appeal before the Hon'ble ITAT, Chandigarh Bench, Chandigarh.*

8. *That the delay of 28 days was only on account of the above said reasons that the order was sent on the portal, which had not been intimated to me by my earlier counsel and after getting the copy of the order from the department in the last week of January 2024, I immediately managed to file the appeal. That the default/delay of 28 days is highly regretted and I assure full cooperation since this is an ex-parte order, I would pray to your kind honour to kindly set aside the case to the file of Assessing Officer so that I may be able to file all the necessary evidences."*

3. After considering the affidavit and request of the assessee for condonation of delay and, we find that the delay of 29 days in filing the appeal is inadvertent and bonafide. The assessee was prevented by sufficient cause from filing the appeal in time. Accordingly, we condone the delay and the appeal is taken to be decided on merits.

4. The brief facts of the case are that the assessee was the manufacturer and trader of cloth who experienced fire in his factory and the work in the factory remained paralyzed and the family became financially crippled; that the books of account of the assessee could not be completed and Income Tax Return

could not be filed on time; that the assessee filed his bank statement and sources of cash etc. with the Assessing Officer through e-proceedings, however, the Assessing Officer ignored the same and passed assessment order u/s 144 making addition of Rs.2,05,28,000/-.

5. Aggrieved the assessee went in appeal before ld. CIT(A) stating that the order of the Assessing Officer was arbitrary and erroneous. The ld. CIT(A) issued various notices i.e., on 29.01.2021, 18.08.2023, 12.09.2023, 20.09.2023 and 09.11.2023 fixing the dates of hearing by ITBA/email, but the assessee had neither responded to the notices nor filed any written submissions in compliance to the notices issued. Therefore, the ld. CIT(A) confirmed the addition made by the Assessing Officer, against which the assessee is in appeal before this Tribunal.

6. We have heard the rival submissions and perused the material available on record. We have found that the assessee, did not make due compliances and did not appear before the Assessing Officer or ld. CIT(A) to produce any explanation/written submissions regarding the source of the cash deposits in his bank account. The assessee stated that the notices sent by ld. CIT(A) had been sent to his earlier counsel and he was not informed by him about the dates of hearing fixed in his case and as such, he could not attend the hearings before

the CIT(A). He also stated that due to business losses, he was mentally upset. Therefore, in the interest of justice, the file is restored to the file of Id. CIT(A) 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 CIT(A).

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

Order pronounced in the Open Court on 05.08.2024.

Sd/-

(KRINWANT SAHAY)
ACCOUNTANT MEMBER

Sd/-

(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 अपीलिय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar