

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

**BEFORE SHRI A.D. JAIN, VICE PRESIDENT &
DR KRINWANT SAHAY, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No. **824/CHD/2023**

निर्धारण वर्ष / Assessment Year : 2018-19

Shri Amarjit Singh, VPO Amargarh, Malerkotla, Sangrur	Vs. बनाम	The DCIT, Central Circle 2, Ludhiana
स्थायी लेखा सं./PAN No: AYWPS7463E		
अपीलार्थी/ APPELLANT		प्रत्यर्थी/ RESPONDENT

निर्धारिती की ओर से/Assessee by : Shri Sudhir Sehgal, Advocate

राजस्व की ओर से/ Revenue by : Shri Ved Parkash Kalia, JCIT Sr.DR

सुनवाई की तारीख/Date of Hearing : 06.08.2024

उद्घोषणा की तारीख/Date of Pronouncement : 08.08.2024

आदेश/Order

Per Dr. Krinwant Sahay, A.M.:

The appeal in this case has been filed by the Assessee against the order dated 12.10.2023 of the Id. Commissioner of Income Tax (Appeals)-5, Ludhiana [herein referred to as CIT(A)].

2. Grounds of appeal taken by the Assessee are reproduced as under: -

1. *That the Ld. CIT(A) has erred in passing the ex-parte order and thereby confirming the addition of Rs. 39,82,099 which includes addition amounting to Rs. 1305050 on account of unexplained money u/s 69A and addition amounting to Rs.2677049 on account of unexplained credits u/s 68.*

2. *That the Ld. CIT(A) has failed to appreciate that the assessee has duly substantiated that the seized parcel was actually the gold amounting to Rs. 13,05,050, sent by the assessee to Sh. Manoj Rati Lai on job work basis for the making of Gold Ornaments and the same has duly been accounted in his books of accounts.*
 3. *That the Worthy CIT (A) has failed to appreciate that the assessee has duly proved the identity and creditworthiness of the lenders and the genuineness of the transactions amounting to Rs.26,77,049.*
 4. *That the Ld. CIT(A) has failed to appreciate the assessee had duly mentioned the correct email id for communication of notices, however, the notices were again being issued on the email of the previous counsel of the assessee and thus, the same was not intimated to the assessee.*
 5. *The finding of the CIT(A) that the same has not complied is against the facts and circumstances of the case and hence the passing of ex-parte order by the Ld. CIT(A) is not justified.*
 6. *That even certain findings/observations made by the Ld.CIT(A) confirming the addition is not proper because no proper opportunity had been given to the assessee to explain the facts of the case and to make the submission.*
 7. *That the appellant craves leave to add or amend the grounds of appeal before the appeal is finally heard or disposed off.*
3. There is a delay of 15 days in filing of the appeal. The Assessee has filed an Affidavit giving reasons for delay in filing of the appeal. The affidavit submitted by the Assessee is as under: -

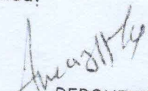
AFFIDAVIT

I, Amarjit Singh S/o Sh. Des Raj resident of Diwana Colony, Amargarh, Tehsil Malerkotla District Sangrur do hereby solemnly state and affirm as under:-

1. That I am carrying on the business of trading of gold under the name and style of M/s Mani Jewellers.
2. That I have filed appeal against the order of the CIT(A) NFAC Delhi On 26.12.2023. The appeal has filed with a delay of 15 days and the details of the same is as under:-

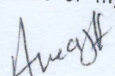
SR.NO	PARTICULARS	DATE OF SEQUENCES
i.	The order of the CIT(A) received by speed post on	11.11.2023
ii.	but uploaded online by the CIT(A) on	12.10.2023
iii.	Appeal has to filed by	11.12.2023
iv.	Appeal was filed on	26.12.2023
v.	Delay of days	15 days

3. That I was under the impression that the appeal has to filed before the Hon'ble ITAT within 60 days from the date of receiving of the CIT(A) order.
4. That I came to know from my counsel that the date of receiving has to be taken from the date of order uploaded online on my income tax portal.
5. That the delay of 15 days of filing of appeal is highly regretted.
6. That my counsel has filed appeal against the order of the Ld. Assessing officer for the assessment year 2018-2019 and he had given his email id i.e. ravis80290@gmail.com. That most of the notices including the last 4 notices were sent by the Ld. CIT(A) NFAC Delhi on kumarvinod221805@gmail.com (which was the e-mail of our earlier counsel) for the purposes of hearing and no notice was sent by way of physical mode.
7. That the earlier counsel did not intimated to me about the date of hearing.
8. That in view of the above said facts, I could not filed any response to the hearing before the Ld. CIT(A), which is highly regretted.
9. That actually, we were under the bonafide belief that we would get the notices in a physical mode and i.e. this default occurred, which is highly regretted.
10. That I undertake to cooperate with the department in future and I pray that the case may, please, be set aside to the file of the CIT(A)/Assessing Officer and I shall duly cooperate with the Assessing Officer concerned.


DEPONENT

VERIFICATION:-

That the contents of the above affidavit are true to the best of my knowledge and belief and nothing has been concealed therein.


DEPONENT

4. We have considered the reasons written in the affidavit. The DR had no objection to the condonation of the delay. Accordingly, the delay is condoned and we proceed to hear the appeal on merits.

5. Brief facts of the case, as submitted by the Counsel of the Assessee are as under:-

The assessee is an individual assessee. The business of trading of gold and work of goldsmith under the name and style of M/s Mani Jewellers, the above said business carried out by the assessee since many years back.

1. The case was taken up for scrutiny and a notice u/s 143(2). During the assessment proceedings the Ld. Assessing Officer had made two additions i.e one addition of Rs. 13,05,050/- as unexplained money under section 69A of the I.T Act, 1961 and second the credit of Rs. 26,77,049/- in the books of assessee is treated as unexplained under section 68 of the Income Tax Act, 1961 and taxed as per provisions of the section 115BBE of the Income Tax Act, 1961.
2. Aggrieved by the order of the Ld. AO, the assessee filed an appeal before Worthy CIT(A). Subsequent thereto, the appeal was fixed and four notices for hearing have been sent by the Worthy CIT(A)-NFAC Delhi on the email of the counsel i.e ravis80290@gmail.com.
3. That the CIT(A) has issued most of the notices to another email i.e kumarvinod221805@gmail.com which belongs to

the earlier counsel of the assessee. The counsel of the appellant had not filed requests for adjournments of few notices were sent on the email of the counsel. The earlier counsel also did not intimate to the appellant about the fixation of hearing. As a result, the assessee was not able to file his detailed submissions during the course of appellate proceedings, therefore, the Worthy CIT(A) has passed the ex-parte order dated 14.12.2023.

4. Reasons for non-compliance of notices u/s 250 of the Act:-

It is very humbly submitted that the appellant is totally dependent upon the counsel who has filed the appeal against the assessment order. The counsel of the appellant did not inform to the appellant. The assessee was not aware of the notices sent by the department on their email. No notice was sent by physical mode to the assessee. In view of the above said facts the assessee could not file the response against the notices as sent by the Worthy CIT(A) NFAC Delhi. The assessee is filing herewith the affidavit as per copy of the same is enclosed herewith.

6. During the proceedings before us, the Id. Counsel of the Assessee submitted that since notices were issued wrongly on the e-mail address of the earlier Counsel who did not inform the Assessee, therefore, the Assessee could not comply with the notices. The Id. CIT(A) has also not given finding on merit. Therefore, the Counsel of the Assessee requested that the case may be remanded back to the CIT(A) to decide the issue on merit.

7. The Id. DR has no objection to the Assessee's request.
8. We have considered the findings of the Id. CIT(A) in his appeal order and the submissions filed by the Id. counsel of the Assessee. We have also considered the arguments put before us by the Id. Counsel for the Assessee. Accordingly, in the interest of justice, the matter is remitted to the file of the CIT(A), to be decided afresh on merit, 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.
9. In the result, the appeal of the Assessee is allowed for statistical purposes.

Order pronounced on 08.08.2024.

Sd/-
(A.D. JAIN)
Vice President

Sd/-
(DR KRINWANT SAHAY)
Accountant Member

“आर.के.”

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