

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

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

आयकर अपील सं./ ITA No. **793/CHD/2023**

निर्धारण वर्ष / Assessment Year : 2012-13

Amarjeet Kaur Kahlon, W/o Rashpal Singh, Vill. Chuharpura, Ludhiana 141008	Vs. बनाम	The ITO, Ward-3(2), Ludhiana
स्थायी लेखा सं./PAN No: HEPPK8568R		
अपीलार्थी/ APPELLANT		प्रत्यर्थी/ RESPONDENT

(Physical Hearing)

निर्धारिती की ओर से/Assessee by : Shri Ashwani Kumar, CA
राजस्व की ओर से/ Revenue by : Shri Vivek Vardhan, JCIT

सुनवाई की तारीख/Date of Hearing : 08.08.2024
उदघोषणा की तारीख/Date of Pronouncement : 13.08.2024

आदेश/Order

Per Dr. Krinwant Sahay, A.M.:

The appeal in this case has been filed by the Assessee against the order dated 19.10.2023 of the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi. -

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

1. *Ground - (no contents mentioned against this ground by Assessee).*
2. *That the order passed by the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi is against the principle of Natural justice as no reasonable opportunity has been given to the Appellant to put forth the facts and the submissions and to defend his case.*
3. *That the order passed by the Ld. Commissioner of Income Tax - NFAC, Delhi is against law and facts on the file in as much as the Ld. CIT(A) has erred in not appreciating that the notice u/s 148 of the Income Tax Act, 1961 was never served on the appellant and thus the assessment proceedings are bad m law.*
4. *That the order passed by the Ld. Commissioner of Income Tax - NFAC, Delhi is against law and facts on the file in as much as the Ld. CIT(A) has erred in not appreciating that the notice u/s 148 of the Income Tax Act, 1961 was not valid as the same was issued by Assessing Officer who did not held the territorial jurisdiction over the appellant.*
5. *Income Tax (Appeals) -NFAC, Delhi is against law and facts on the file in as much as the Ld. CIT(A) has erred in not appreciating that the initiation of proceedings u/s 148 of the Income Tax Act, 1961 was bad in law as the same was without sufficient material and without application of mind,*
6. *That the order passed by the Ld. Commissioner of Income Tax (Appeals) -NFAC, Delhi is against law and facts on the file in as much as the Ld. CIT(A) has erred in not appreciating that the*

notice issued u/s 148 of the income Tax Act, 1961 was in contravention of section 151 of the Act.

7. *That the order passed by the Ld. Commissioner of Income Tax (Appeals) -NFAC, Delhi is against law and facts on the file in as much as the Ld. CIT(A) has erred in not appreciating that the assessment order making addition of Rs. 69,42,000/- u/s 69 of the Act was without any base and reasons thereof; That the Assessment Order was passed without giving proper opportunity of being heard in contravention of principles of natural justice; That the assessment was framed on the basis of some material! and statements gathered at the back of the Assessee without affording opportunity to cross-examination, and that the addition on assessment was made on the basis of suspicion, surmises and conjectures.*
8. *The appellant craves leave to add, alter, amend or delete any of the above grounds of appeal*

3. The ld. Counsel of the Assessee brought on record that notice issued by the Commissioner of Income Tax (Appeals) was through ITBA, which the Assessee could not see. The ld. Counsel also brought on record the decision of the Hon'ble jurisdictional Punjab and Haryana High Court in the case of 'Munjal BCU Centre of Innovation and Entrepreneurship Vs CIT(E) Chandigarh', CWP No. 21028/2023 dated 4.3.2024 and requested that as the service of notice was solely on portal which could not be seen by the Assessee, therefore, as per

the Hon'ble jurisdictional High Court's decision in the above mentioned case, the Assessee may be presumed to have no knowledge of the proceedings. The ld. Counsel further submitted that as such, it cannot be treated as a valid service of notice. The ld. Counsel also argued that even the assessment order passed by the Assessing Officer was also an ex-parte order as the Assessee could not get opportunity to bring a material fact on record of the A.O. Accordingly, the ld. counsel requested to remand the matter back to the file of the Assessing Officer.

4. The ld. DR relied on the order of the CIT(A).

5. We have considered the findings of the ld. CIT(A) in his appeal order and the submissions made by the ld. Counsel of the Assessee during the proceedings before us. We find that the assessment order passed by the Assessing Officer is an ex-parte order and the appeal order passed by the ld. CIT(A) is also an ex-parte order. Accordingly, in our opinion, the Assessee could not get opportunity to bring material fact on record of the A.O. Therefore, in order to provide natural justice to the Assessee, the case is remanded back to the file of the Assessing Officer 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 lower authorities. All pleas available under the law shall remain so available to the assessee. Ordered accordingly.

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

Order pronounced on 13.08.2024.

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