

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. 191/CHD/2024

निर्धारण वर्ष / Assessment Year : 2017-18

Bharat Kumar, 620, 2 nd Floor, Sarvhitkari Society, Sec 48A, Chandigarh	Vs. बनाम	The ITO, Ward 5(4), Chandigarh
स्थायी लेखा सं./PAN No: AVAPK2319P		
अपीलार्थी/ APPELLANT		प्रत्यर्थी/ REPSONDENT

(HYBRID HEARING)

निर्धारिती की ओर से/Assessee by : Smt. Shruti Khandelwal, Advocate for
Sh. Parikshit Aggarwal, CA

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

सुनवाई की तारीख/Date of Hearing : 13.08.2024

उद्घोषणा की तारीख/Date of Pronouncement : 14.08.2024

आदेश/Order

Per Dr. Krinwant Sahay, A.M.:

The appeal in this case has been filed by the Assessee against the order dated 26.12.2023 of the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi.

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

1. *That on the facts, circumstances and legal position of the case, Worthy CIT(A), NFAC in Appeal No. CIT (A), Chandigarh-2/10890/2019-20 has erred in passing order u/s 250 dtd. 26.12.2023 as the same is in contravention of provisions of s. 250 of the Income Tax Act, 1961 (hereinafter referred to as "Act").*
2. *That on facts, circumstances and legal position of the case, the impugned assessment order deserves to be quashed since its initiation, continuation as well as conclusion was foundationally illegal.*
3. *That on facts, circumstances and legal position of the case, Worthy CIT(A) has erred in confirming the addition of Rs. 45,68,560/- made by Ld. AO u/s 69A of the Act by erroneously holding the cash deposit in bank during demonetization period from alleged unexplained sources.*
4. *That on facts, circumstances and legal position of the case, the order passed by Ld. AO and then by Worthy CIT(A) deserves to be quashed since the same have been passed without affording reasonable opportunity of being heard to the appellant.*
5. *That the appellant craves leave for any addition, deletion or amendment in the grounds of appeal on or before the disposal of the same.*

3. At the very outset, the ld. Counsel for the Assessee submitted that it is an ex-parte order passed by the ld. CIT(A). The ld. Counsel also submitted that even the assessment order passed by the Assessing Officer is also an ex-parte order. So, in fact, the Assessee had no occasion to bring on record the material fact in his favour either before the Assessing Officer or before the ld. CIT(A).

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

5. We have considered the findings of the CIT(A) in his order and we find that his findings are based on the material discussed by the Assessing Officer in the assessment order passed ex-parte. Thus, it is clear that the Assessee's point of view has not been considered either by the Assessing Officer or by the Id. CIT(A) because orders of both the authorities below are ex-parte orders. Therefore, keeping in view the element of natural justice, it is prudent to remand back this case to the CIT(A) for adjudication afresh on merits in accordance with law, based on documents to be submitted by the Assessee, 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.

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

Order pronounced on 14.08.2024.

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