

आयकर अपीलीय अधिकरण
दिल्ली पीठ "ए", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री नवीन चंद्र, लेखाकार सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

आअसं . 1524/दिल्ली/2024 (नि. व. 2012-13)
ITA No.1524/DEL/2024 (A.Y.2012-13)

Anil Tyagi,
C/o Kashyap & Co.
114, Citi Centre, B.B Road,
Meerut, UP 250001
PAN: AFQPT-5098-A

..... अपीलार्थी / Appellant

बनाम Vs.

Income Tax Officer, Ward-1(1),
Aaykar Bhawan, Bhainsali Ground,
Delhi Road, Meerut, UP 250001

..... प्रतिवादी / Respondent

अपीलार्थी द्वारा / Appellant by : Shri PS Kashyap, Chartered Accountant
प्रतिवादीद्वारा / Respondent by : Shri Kanv Bali, Sr.DR
सुनवाई की तिथि / Date of hearing : 14/08/2024
घोषणा की तिथि / Date of pronouncement : 14/08/2024

आदेश / ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short 'the CIT(A)'] dated 08.02.2024, for Assessment Year 2012-13.

2. Shri PS Kashyap appearing on behalf of the assessee submitted that the assessee is an agriculturist. The assessment in the case of assessee was reopened

on the basis of AIR information and addition of Rs. 31,09,750/- was made in the hands of assessee on account of unexplained cash credit. The assessment order was passed u/s. 144 r.w.s 147 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'). The assessee failed to appear before the Assessing Officer (AO) as no notice was served upon the assessee. Aggrieved against the assessment order dated 13.12.2019, the assessee filed appeal before the CIT(A). Immediately after filing of appeal, due to outbreak of Covid-19 pandemic the assessee could not appear before the CIT(A). The CIT(A) in ex-parte proceedings, upheld the additions made in assessment order. The Id. Counsel submitted that the assessee has *prima facie* good case in his favour. The assessee would be able to explain the source of funds, if an opportunity to appear before the AO is granted.

3. Shri Kanv Bali representing the department strongly supported the impugned order. He pointed that the CIT(A) had issued notices to the assessee after Covid-19 pandemic was over in the year 2023. The assessee failed to appear before the CIT(A) in 2023 either.

4. We have heard the submissions made by rival sides and have examined the orders of authorities below. A perusal of impugned order reveals that indeed appeal was filed by the assessee before the First Appellate Authority just before the outbreak of Covid-19 pandemic. The CIT(A) had issued notices to the assessee in February 2021. At that time still there was effect of Covid-19 pandemic. Thereafter, the CIT(A) issued notice on 21.12.2023, 29.12.2023 and finally on 18.01.2024. By the end of year 2023 there was no impact of Covid-19 on the normal life and working, hence, the plea of assessee that Covid-19 pandemic was the cause of non-

appearance before the CIT(A) is unsustainable. It is a case of pure negligence on the part of assessee for non-appearance before the First Appellate Authority. Such negligence cannot be ignored lightly. We are of considered view that this is a fit case for levy of cost on the assessee for non-compliance of notices issued by the CIT(A). Considering the fact that assessment was also framed u/s. 144 of the Act, we are of view that the issue raised in appeal be restored back to the file of AO for fresh consideration. The AO shall make *denovo* assessment after affording reasonable opportunity of making submissions to the assessee, in accordance with law.

5. The assessee shall pay cost Rs. 5,000/- in accordance with Rule 32A(2) of the Income Tax (Appellate Tribunal) Rules, 1963(hereinafter referred to as 'the Rules') within three weeks from the date of receipt of this order and shall furnish copy of proof of payment of cost to the AO before initiation of *denovo* assessment. The assessee shall also furnish his current address/email id for service of notice to the AO. Upon service of notice the assessee shall respond to such notice, without fail.

6. In the result, appeal of the assessee is allowed for statistical purpose in the terms aforesaid.

Order pronounced in the open court on Wednesday the 14th day of August, 2024.

Sd/-

(NAVEEN CHANDRA)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली/Delhi, दिनांक/Dated 14/08/2024

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

NV/-

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, DELHI