

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "बी", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "B", CHANDIGARH

HEARING THROUGH: HYBRID MODE

श्री विक्रम सिंह यादव, लेखा सदस्य एवं श्री परेश म. जोशी, न्यायिक सदस्य
BEFORE: SHRI. VIKRAM SINGH YADAV, AM & SHRI. PARESH M. JOSHI, JM

आयकर अपील सं. / ITA NO. 792/Chd/2023
निर्धारण वर्ष / Assessment Year : 2012-13

Shri Sandeep Arora, H.No. 1018, Sector 44B, Chandigarh	बनाम	The ITO Ward-5(2), Chandigarh
स्थायी लेखा सं. / PAN NO: AEOPA4823M		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारिती की ओर से/ Assessee by : Shri Parikshit Aggarwal, C.A
राजस्व की ओर से/ Revenue by : Shri Vivek Vardhan, JCIT, Sr. DR
सुनवाई की तारीख/ Date of Hearing : 12/08/2024
उद्घोषणा की तारीख/ Date of Pronouncement : 13/08/2024

आदेश/ Order

PER VIKRAM SINGH YADAV, A.M. :

This is an appeal filed by the Assessee against the order of the Ld. CIT(A)/NFAC, Delhi dt. 06/12/2023 pertaining to Assessment Year 2012-13.

2. In the present appeal, the Assessee has raised the following grounds of appeal:

1. "That on the facts, circumstances and legal position of the case, Worthy CIT(A), NFAC in Appeal No. CIT (A), Chandigarh-2/10979/2019-20 has erred in passing order dtd. 06.12.2023 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, Worthy CIT(A) has erred in confirming the actions of Ld. AO in initiating, continuing and then concluding the impugned assessment u/s 148 r.w.s. 147 and hence the impugned assessment order deserves to be quashed.

3. That on facts, circumstances and legal position of the case, Worthy CIT(A) has erred in confirming addition of Rs. 2,19,50,000/- made by Ld. AO by erroneously holding the same as short term capital gain by assuming the amount of loan raised as purchase cost which is without due application of mind and more-so when amount as per registered purchase deed and legitimate expenses thereon should have been considered as purchase cost.

4. That on facts, circumstances and legal position of the case, the impugned order passed by the Ld. AO u/s 147 and then by Worthy CIT(A) u/s 250 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. During the course of hearing, the Ld. AR submitted that the Ld. CIT(A) has passed an *exparte* order. It was submitted that notices were sent on a wrong email ID and not on the email ID mentioned in Form No. 35 and as a result, none of the notices were received by the assessee and in absence thereof, necessary compliances could not be made. It was accordingly submitted that there exist reasonable and bonafide reason for non compliance before the Ld. CIT(A) and in view of the fact that the matter has not been decided on merits of the case, the same may remanded back to the file of the Ld. CIT(A) to decide the same afresh after providing reasonable opportunity to the assessee.

4. In his submission, the Ld. DR fairly submitted that the order has been passed *exparte* without going into the merits of the case. It was submitted that the Revenue has no objection where the matter is set aside to the file of the Ld. CIT(A) to decide on the merits of the case after hearing the assessee.

5. After hearing both the parties and considering the material available on the record and the fact that the impugned order has been passed *ex-parte* qua the assessee without deciding on merits of the case, the matter is set aside to the file of the Ld. CIT(A) to decide the same afresh as per the law after providing reasonable opportunity to the assessee. Needless to say, the assessee

shall participate in the proceedings and file necessary documentation/submission as so called for and as so advised.

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

Order pronounced in the open Court on 13/08/2024.

Sd/-

परेश म. जोशी
(PARESH M. JOSHI)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-

विक्रम सिंह यादव
(VIKRAM SINGH YADAV)
लेखा सदस्य/ ACCOUNTANT MEMBER

AG

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