

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

HEARING THROUGH: PHYSICAL 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. 783/Chd/2023
निर्धारण वर्ष / Assessment Year : 2014-15

Manjinder Singh Proprietor Seeko Plates & Batteries, Plot No. 116, Industrial Area Phase-2 Chandigarh	बनाम	The ITO Ward-5(5), Chandigarh
स्थायी लेखा सं. / PAN NO: BLRPS6403G		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Vibhor Garg, CA
राजस्व की ओर से / Revenue by : Shri Vivek Vardhan, JCIT, Sr. DR
सुनवाई की तारीख / Date of Hearing : 14/08/2024
उदघोषणा की तारीख / Date of Pronouncement : 22/08/2024

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. 09/06/2023 pertaining to Assessment Year 2014-15.

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

1. *That the impugned order is bad both on facts and law.*
2. *That the Ld. Appellate Authority passed an ex-party order without allowing opportunity of being heard against the principles of natural justice and AO wrongly and illegally made additions under section 68 without having been able to understand the vital structure and the accounting entries and without fully and comprehensively understanding the case.*
3. *That the Ld. AO has wrongly and illegally made addition of Rs. 42,00,000/- ignoring the pleadings on record and against the facts and circumstances of the case and without appreciating the surrounding circumstances and human probabilities.*
4. *That the Ld. AO has wrongly and illegally made addition of Rs. 26,98,791/- after ignoring the full facts of the case and without appreciating the accounts,*

necessity and technique subsequently to be rectified and corrected by appellant.

5. *That the interest u/s 234A, 234B, 234C and 234D have been wrongly and illegally charged.*

6. *That the appellant craves permission to add, amend, elucidate any ground of appeal at the time of hearing."*

3. During the course of hearing, Ld. AR submitted that an ex-parte order was passed u/s 250 dated 09.06.2023 bearing DIN No: ITBA/NFAC/S/250/2023-24/1053633599(1) rejecting the ground of appeal of the appellant and upholding the addition made by the Ld AO in its order u/s 143(3) of the Income Tax Act, 1961 dated 21.11.2016.

3.1 It was submitted by the Id AR that the appeal was earlier fixed before CIT(A), Chandigarh in physical mode then the same was transferred to Faceless Appeals Centre under the Faceless regime implemented by CBDT after which notices on e-mail were not received by the assessee nor any physical notice was received. In Form 35, where credentials of the party is filled, it is specifically asked '*Whether notices/communication may be sent on email?*' and the assessee has mentioned 'No'. So, as per our understanding, the department was obligated to send the notices physically where it is specifically denied by the assessee that notices on e-mail should not be sent. But no physical notice for fixation of the appeal was received by the assessee.

3.2 It was further submitted that during the assessment proceedings, the assessee was under intense trauma and mental agony as his mother Smt. Satnam Kaur died on 11.05.2015 after suffering for more than two years and elder brother, Sh Sukhwinder Singh died on 25.07.2016 after suffering for more than two years. This had adversely affected both his financial and mental condition. This was the time when assessment proceeding was in full swing and this fact was also brought to the knowledge of the Ld.AO in our reply dated

07.11.2016 (Kindly refer to sub-para (b) of para 3.3 on page 5 of the assessment order). Due to the above stated reason, the assessee was unable to procure and submit the evidence before the AO regarding the credit entries in capital account which is claimed to be recoveries from sundry debtors and also was not able to procure and submit evidence of sale of jewellery. The pressing circumstances of the assessee prevented him from properly pursuing the assessment proceedings. It was accordingly prayed that the assessee be allowed an opportunity to file additional evidence as there was reasonable cause for not filing the evidence at assessment stage and the matter may be set-aside to the file of the Assessing officer for adjudicating the same afresh after providing opportunity to the assessee.

4. The Id Sr DR was heard who has relied on the order passed by the lower authorities. On the question of remand due to medical challenges, he submitted that the matter may be appropriately decided by the Bench.

5. We have heard the rival contentions and perused the material available on record. The fact that during the time the assessment proceedings were underway, the assessee was under severe medical challenges in his family due to ill health of his mother as well as brother who unfortunately expired is also borne out of assessee's submissions before the AO as well as the statement of facts submitted before the Id CIT(A) which the latter has also acknowledged. During the course of hearing, the Id Sr Dr also didn't disputed the said fact. We therefore find that the assessee has reasonable cause for not properly representing his matter before the AO which has resulted in passing of the assessment order and consequent demand. As far as appellate proceedings before the Id CIT(A) is concerned, we find from perusal of records that though initial notices were served on the assessee and were complied with, however, once the matter was transferred to CIT(A), NFAC, apparently, the assessee

didn't receive any notices as so claimed and not specifically disputed by the Id DR, resulting in passing of the ex-parte order and dismissal of the appeal on account of non-prosecution. In ordinary circumstances, we would have remanded the matter to the file of the Id CIT(A), however, in the peculiar facts and circumstances of the present case especially where additional evidences are sought to be adduced and which would require necessary verification, we find that it would be appropriate to remit the matter back to the file of the AO to consider the additional evidences as so sought to be submitted by the assessee and allow the assessee to represent his case and basis examination thereof, the matter be decided on merits afresh as per law. In the result, we set-aside the matter to the file of the AO and appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open Court on 22/08/2024.

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