

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER  
AND SH. UDAYAN DAS GUPTA, JUDICIAL MEMBER**

**I.T.A. No.286/Asr/2024  
Assessment Year: 2012-13**

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| Davinder Singh, VPO<br>Sandhanwal, Tehsil Shahkot,<br>Distt. Jalandhar.<br>[PAN:CIYPS5011H]<br><b>(Appellant)</b> | Vs. | ITO, Ward, Nakokar,<br>Jalandhar.<br><br><b>(Respondent)</b> |
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| <b>Appellant by</b>  | Sh. Kushal Chopra, CA               |
| <b>Respondent by</b> | Sh. Radhey Shyam Jaiswal, Sr.<br>DR |

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| <b>Date of Hearing</b>       | 25.06.2024 |
| <b>Date of Pronouncement</b> | 28.08.2024 |

**ORDER**

**Per: Udayan Das Gupta, JM**

This appeal is filed by the assessee against the order of the Ld. CIT(A), NFAC, dated 19/03/2024, u/s 250 of the Act 61, which has emanated from the order of the ITO , Nakodar, dated 18/12/2019, passed u/s 144/147 of the Act 61.

2. The grounds of appeal preferred by the assessee as per memorandum of appeal are as follows:

“1. That the order of the Ld. CIT(A) is against law and facts of the case on the file.

2. That the Ld. CIT(A) gravely erred in passing the appellate order without giving a proper opportunity of being heard.

3. That the Ld. CIT(A) has gravely erred in sustaining the addition of Rs. 7,10,000/- in respect of deposits in bank account without considering the proper facts of the case and without observing the principles of natural justice.

4. That the Ld. CIT(A) has gravely erred in sustaining the addition of Rs. 2,45,000/- in respect of Insurance Premium paid without considering the proper facts of the case and without observing the principles of natural justice.

5. That the appellant begs to add or amend any ground of appeal before the appeal is heard and disposed off.”

3. The brief facts of this case are that the individual assessee is an agriculturist and *kissan* credit card bank account holder, and deriving income from agricultural activities. On the basis of information received by the AO, that the assessee has made cash deposits in bank and has investments by way of payment of life insurance premium and in absence of any return of income being furnished in normal course, proceedings u/s 148 of the Act 61 has been initiated, after necessary approval from higher authorities.

3.1 However, no return in response to notice u/s 148 of the Act 61, has been filed either, but during course of reassessment proceedings the assessee has complied with the notices and filed written submissions explaining source of bank

deposits and payments of life insurance premium during the year FY 2011-12, and evidence of agricultural income in Form – J has also been filed along with other documentary evidences and written explanations, which are on record. The explanations and submissions of the assessee has been considered by the AO but not being fully satisfied with the same total income has been determined at Rs.9,57,102/- plus agricultural income at Rs. 2,18,431/-.

4. The matter was carried in appeal before the first appellate authority, but in absence of any response from the assessee and in absence of any written submissions or explanations being filed before the Ld. CIT (A) NFAC, in response to repeated notices being issued on four separate dates of hearing (as stated in page – 7 of appeal order), the Ld. CIT(A), on the basis of submissions and materials existing on record before him, confirmed the addition and dismissed the appeal.

5. Now the assessee is before the tribunal on the grounds contained in the memorandum of appeal.

6. The Ld. AR of the assessee filed a short paper book and a synopsis , containing details of notices issued by the office of the first appellate authority , to the email id of the earlier counsel of the appellant [swaram.singh54@gmail.com](mailto:swaram.singh54@gmail.com) , and another one to another email id [shahkot98@gmail.com](mailto:shahkot98@gmail.com) and another one to third email id [sdadinder199@gmail.com](mailto:sdadinder199@gmail.com)

7. He submitted that notices from the office of the Ld CIT(A) has not been received by the assessee, because it has been sent to email id of previous lawyer

(tax consultant) who never intimated the assessee. He further pointed out that in the memorandum of appeal in form 35, the assessee has specifically given an email id for the purpose of issue of notice and he referred to para – 17 of Form 35 , where the given id is [anilmiglani@gmail.com](mailto:anilmiglani@gmail.com) , and he submitted that one single notice dated 22/11/2022, has indeed been issued to the said mail id but since the lawyer Mr Miglani was travelling , he missed the said date of hearing , and thereafter, no notice of hearing has been issued and served on the given mail at any point of time , and the first appellate authority has dismissed the appeal vide order dated 19<sup>th</sup> March, 2024, which is approximately sixteen months after the notice dated 22/11/2022, without any further opportunity of hearing , which clearly violates the principles of natural justice.

8. The Ld. AR further relied on the judgment of the jurisdictional High court in the case of

*MUNJAL BCU CENTRE OF INNOVATION AND ENTREPRENEURSHIP  
V/s. COMMISSIONER OF INCOME TAX EXEMPTIONS, CHANDIGARH,  
CWP-21028-2023 (O&M), Date of Decision: 04.03.2024, where the Hon'ble  
court has observed that notice is to be issued and served as per provisions of  
section 282 of the Act 61.*

8.1 He further argued that in the instant case proper opportunity of hearing has not been provided which has resulted in grave injustice to the assessee, and further due to non-presentation of all documentary evidences and explanations before the first appellate authority , the Ld. CIT(A) had no opportunity to examine and decide

the case on merits and had to pass an order without proper appraisal of facts, resulting in prejudice to the assessee, and he prayed that the matter be sent back to the first appellate authority , where he agreed to cooperate fully in the appellate proceedings .

9. The Ld. DR relied on the order of the Ld. CIT (A) and argued that one notice dated 22/22/2022, has been served on the email id provided in memorandum of appeal in Form 35, as such it was the obligation of the assessee to keep track of further proceedings, and he prayed for sustaining of the appeal order.

10. We have heard the rival submissions and considered the materials on record, and the observation of the Hon'ble jurisdictional High court in the case of *Munjral BCU Centre vs CIT( E) ( supra )* , and we find that one notice dated 22<sup>nd</sup> November, 2022 ( as admitted by the assessee ) has been served on the email id as stated in the memorandum of appeal in form 35 which is [anilmiglani@gmail.com](mailto:anilmiglani@gmail.com) , which is the correct address given by the assessee in his appeal particulars. As stated by the Ld. AR, no representation could be made because the Ld. counsel was travelling at that period of time and he missed the date. Subsequently, no further notice has been issued and served on the above email id contained in form 35, till the date of passing the order, on 19<sup>th</sup> March, 2024, which is approximately sixteen months from the date of issue of the earlier notice dated 22/11/2022. There is absolutely no reason, as to why further opportunity has not been allowed (by

-serving notice at the correct address) within this period of sixteen months, before passing the appeal order.

10.1 We are of the opinion that there has been lack of proper opportunity in this case, resulting in violation of the principles of natural justice, and the assessee should be allowed another opportunity to explain his case along with documentary evidences on the issues contained in his grounds of appeal in form 35.

10.2 Respectfully, following the observation of the High Court (supra) we deem it fit to remand the case back to the files of the Ld. CIT (A), to decide the grounds on merits of the case after allowing opportunity to the assessee to make his submissions along with supporting documentary evidences, as per provisions of law.

11. In the result, the appeal of the assessee bearing **ITA No. 286/Asr/2024** is allowed for statistical purposes.

**Order pronounced in the open court on 28.08.2024**

**Sd/-**

**(Dr. M. L. Meena)**  
**Accountant Member**

**Sd/-**

**(UDAYAN DAS GUPTA)**  
**Judicial Member**

AKV

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)

(5) The DR, I.T.A.T.

True Copy  
By order