

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
CHANDIGARH BENCH, 'SMC', CHANDIGARH

**BEFORE SHRI A.D. JAIN, VICE PRESIDENT &
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No. 129/CHD/2024

निर्धारण वर्ष / Assessment Year : 2013-14

Jai Chand HUF, Vill Palsora, Chandigarh 160040	Vs. बनाम	The ITO, Ward 5 (5), Chandigarh
स्थायी लेखा सं./PAN No: AACHJ2903D		
अपीलार्थी/ APPELLANT		प्रत्यर्थी/ RESPONDENT

(PHYSICAL HEARING)

निर्धारिती की ओर से/Assessee by : Shri Nikhil Goyal, Advocate
& Shri Ashok Goyal, CA

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

सुनवाई की तारीख/Date of Hearing : 06.08.2024

उदघोषणा की तारीख/Date of Pronouncement : 03.09.2024

आदेश/Order

Per Krinwant Sahay, A.M.:

The appeal in this case has been filed by the Assessee against the order dated 09.01.2024 of the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi.

2. Grounds of appeal are as under: -

1. *That Whether the Ld. CIT (Appeals) erred in dismissing the appeal on account of arbitrary interpretation of section of 249(4) of the Income Tax Act, 1961.*
2. *Whether in facts and circumstances of the case, the Ld. CIT (Appeals) erred in upholding the Assessment Order without adjudicating merits of the case.*
3. *Whether in facts and circumstances of the case, the Ld. AO had erred in adding the income of Rs. 39,77,114/- belonging to the Individual Jai Chand having PAN- BDAPC7338H in the hands of Appellant HUF having PAN- AACHJ2903D*
4. *That the impugned Order had been passed in gross violation of the principle of natural justice and without allowing reasonable opportunity of being heard to the Assessee.*

3. At the very outset, the ld. Counsel for the Assessee submitted that in this case the Assessing Officer has passed an ex-parte order u/s 144 of the Income Tax Act, 1961 (in short 'the Act') and the ld. CIT(A) has also dismissed the appeal after giving the finding that the provisions of section 249 (4) (b) of the Act have not been complied by the Assessee. The ld. Counsel further submitted that the Assessee had no occasion to make representation on merit either before the Assessing Officer or before the ld. CIT(A), therefore, the Counsel

requested the Bench to remand this case back to the Assessing Officer for fresh assessment.

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

5. We have considered the assessment order passed by the Assessing Officer u/s 144 of the Act and the appeal order passed by the Id. CIT(A) dismissing the appeal for non-compliance of provisions of section 249 (4)(b) of the Act. Accordingly, in our opinion, the Assessee could not get opportunity to bring material fact on record of the A.O. Therefore, in order to provide natural justice to the Assessee, the case is remanded back to the file of the Assessing Officer to be decided afresh on merit, in accordance with law, on affording due and adequate opportunity of hearing to the Assessee. The Assessee, no doubt, shall cooperate in the fresh proceedings before the lower authorities. 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 03.09.2024.

Sd/-
(A. D. JAIN)
Vice President

“आर.के.”

Sd/-
(KRINWANT SAHAY)
Accountant Member

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