

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

BEFORE: SHRI A.D.JAIN, VICE PRESIDENT AND
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. 203/CHD/2024

निर्धारण वर्ष / Assessment Year : 2016-17

Shri Ambika Prashad, Muhaj Jaly Bangal, Tikkur Salooni, Chamba (HP).	बनाम VS	The ITO, Ward , Dalhousie.
स्थायी लेखा सं./PAN /TAN No: BFRPP3202G		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारित की ओर से/Assessee by : Shri P.N.Arora, Advocate

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

तारीख/Date of Hearing : 14.08.2024

उद्घोषणा की तारीख/Date of Pronouncement : 04.09.2024

HYBRID HEARING

आदेश/ORDER

PER A.D.JAIN, VICE PRESIDENT

This is assessee's appeal for assessment year 2016-17 against the order dated 01.01.2024 passed by the Id. CIT(Appeals) NFAC, Delhi. The assessee has taken the following grounds of appeal taken :

- 1. That the order of the Assessing Officer as well as the order of Learned CIT(A) are both against the facts of the case and are untenable under the law.*
- 2. That the worthy CIT(A) has not appreciated the facts of the case and merely relied on order of the AO and without applying his mind and without any rhyme & reason, the Id. CIT (A)*

has confirmed the addition of Rs. 10,19,450/- made by the AO. As such the order of Id CTI'(A) is liable to be cancelled and the addition made may be deleted.

- 3. That the ld. CIT(A) did not appreciate that no notice n/s 148 was served on the assessee. The AO in assessment order observed that notice u/s 148 was issued on 28/03/2021 but he has failed to observe the date of service of notice. As such all the proceedings taken thereafter are bad in -the eyes of law and as such the AO has also grossly erred in making the addition of Rs.10,19,450/- and the addition made may be deleted*
- 4. That the AO has grossly erred in making the addition of Rs.9,56,810/-on account of deposits in saving bank account and again the AO has erred in making the addition of Rs.61,896/-on account of interest received by the assessee. The AO did not appreciate that this amount was not a part of income and there is no reason and occasion for making the addition and as such the addition made may be deleted Alternatively the addition made is very high & excessive.*
- 5. That the AO has erred in making the addition of Rs.61,896/- on account of interest attached received "and treating the same as income other sources. The addition made is not called for and the same may be deleted. The AO has also erred in making the addition of Rs.744/-. Similarly the CTT(A) has grossly erred in confirming the addition without applying his mind and without appreciating the facts of the case.*
- 6. That the authorities below did not appreciate that the assessee was engaged in the business of mobile recharge and was running shop in remote area of Chamba District and was duly maintaining the books of accounts. As such, the order of CTT(A) is bad in the eyes of law and he has confirmed the same without appreciating the facts and without applying his mind. The OT(A) has also decided the case (ex-parte) and there confirmed the addition made by the AO.*
- 7 That the Ld. CIT(A) has dismissed the appeal in limine without appreciating the facts of this case and without application of mind. As such the order of the CIT(A) is bad in the eyes of law and even this case has not been decided on merits. As such the order ofthe CIT(A) is liable to be cancelled."*

2. At the outset, the ld. Counsel for the assessee has invited our attention to the impugned order of the ld.CIT(A) to

submit that the ld.CIT(A) has rejected the appeal of the assessee without appreciating the fact that no notice under Section 148 of the Act was served on the assessee; that the ld. CIT(A) was not justified in deciding the case of the assessee ex-parte without appreciating the facts of the case and without application of mind; that the CIT(A) has mentioned the dates on which the notices were issued but there is no mention of date of service of notice upon the assessee; that no notice of hearing was served on the assessee; that the case has not been decided on merits.

4. The ld. DR has relied on the impugned order.

5. We have heard the rival contentions and have found that the ld. CIT(A) has passed an ex-parte order without considering the merits of the case. There is nothing on record to prove that the assessee was served any notice of hearing. Even in the impugned order, mention has been made only of issuance of notice and not service thereof. Considering the above facts and circumstances of the case, we deem it fit and appropriate that in the interest of justice, the assessee should be provided a reasonable and proper opportunity of being heard. Accordingly, the file is restored to the file of the ld. CIT(A) to decide the matter afresh in

accordance with law. The ld. CIT (A) will serve notice of hearing through physical mode as well as through electronic mode upon the assessee. The assessee, no doubt, shall cooperate in the fresh proceedings before the ld. CIT(A). All pleas available under the law shall remain so available to the assessee.

6. The appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced on 04.09.2024.

Sd/-

(KRINWANT SAHAY)
ACCOUNTANT MEMBER

Sd/-

(A.D.JAIN)
VICE PRESIDENT

“Poonam”

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