

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

**BEFORE SHRI A.D.JAIN, VICE PRESIDENT AND
SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No 83/CHD/2024

निर्धारण वर्ष / Assessment Year : 2018-19

M/s S.K. Construction Company, House No. 237, Street No. 5, Prem Basti, Sangrur.	Vs	The DCIT, Central Circle, Patiala.
स्थायी लेखा सं./PAN NO: ABLFS8496G		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by: Shri Vibhore Garg, CA

राजस्व की ओर से/ Revenue by : Shri Vivek Vardhan, JCIT, Sr.DR

सुनवाई की तारीख/Date of Hearing : 29.08.2024

उद्घोषणा की तारीख/Date of Pronouncement : 04.09.2024

PHYSICAL HEARING

आदेश/Order

PER A.D.JAIN, VICE PRESIDENT

The present appeal has been preferred by the assessee against the order passed by the Id. Commissioner of Income Tax (Appeals)-5, Ludhiana, dated 31.11.2023 pertaining to 2018-19 assessment year.

2. The assessee has raised the following grounds of appeal :

"1. That the impugned order is bad both on facts and law.

2. *That the CIT(A) has wrongly and illegally upheld the additions made by the ld. AO by passing any ex-parte order against the facts and circumstances of the case without allowing the opportunity of being heard against the principle of natural justice.*

3. *That the ld. CIT(A) wrongly and illegally passed an ex-parte order presuming issue of notice to be service of notice.*

3. The ld. Counsel for the assessee has invited our attention to the impugned order to submit that the ld. CIT(A) has passed an ex-parte order without allowing sufficient opportunity of being heard to the assessee and without giving any observation on the merits of the case. He has further submitted that the e-mail Id mentioned in Form 35 i.e. aggarwal_sharma@yahoo.com was of Shri Chirag Aggarwal, Advocate, who missed the e-mails as they were received in spam folder. He has also contended that the Advocate did not inform about the notices being received on the e-mail. The assessee was informed about two notices for which the assessee had taken adjournment as the case was under preparation. It has been requested that in the interest of justice, the appeal may be remanded to the file of ld. CIT(A).

4. The ld. DR relied upon the impugned order.

5. We have heard the rival contentions and perused the

material available on record. We have found that the ld. CIT(A) dismissed the appeal of the assessee on the basis of non-compliance of the notices issued by the office of the ld. CIT(A). On the other hand, the ld. Counsel for the assessee has contended that the assessee was not given sufficient opportunity to plead his case. The impugned order does not make mention of service of the notices. Accordingly, we are of the considered opinion that in the interest of justice, the assessee should be given opportunity of being heard to present his case. Therefore, the appeal is restored to the file of ld. CIT(A) to decide the matter afresh on merits in accordance with law after providing reasonable opportunity of being heard to the assessee. The assessee, no doubt, shall cooperate in the fresh proceedings before the CIT(A).

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

Order pronounced on 04.09.2024.

Sd/-

(VIKRAM SINGH YADAV)
ACCOUNTANTMEMBER

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. गार्डफाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar