

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

HEARING THROUGH: HYBRID 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. 344/Chd/2024  
निर्धारण वर्ष / Assessment Year : 2017-18

Parminder Singh Grewal, Vill Toosa, Toosey Raikot, Ludhiana	बनाम	The ITO Jagraon
स्थायी लेखा सं./PAN NO: APZPG3900K		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Ashwani Kumar, C.A  
राजस्व की ओर से/ Revenue by : Shri Vivek Vardhan, JCIT, Sr. DR  
सुनवाई की तारीख/Date of Hearing : 02/09/2024  
उद्घोषणा की तारीख/Date of Pronouncement : 06/09/2024

**आदेश/Order**

**PER PARESH M. JOSHI, J.M. :**

This is an appeal filed by the Assessee under section 253 of the Income Tax Act, 1961 before this Tribunal. The relevant Assessment Year is 2017-18. The corresponding previous year period is from 01/04/2016 to 31/03/2017. The assessee is aggrieved by order No. ITBA/NFAC/S/250/2023-24/1060542085(1) dated 06/02/2024 of the Ld. CIT(A) which is hereinafter referred to as the "impugned order".

**Factual Matrix**

2. Appellant is an individual and earns income from commission income and other sources. The assessment was framed in respect of AY 2017-18 vide order dated 22.12.2019. While framing the said assessment, Learned Assessing Officer added a sum of Rs.13,68,480/- out of cash deposited in the bank accounts maintained with Canara Bank during the demonetization period as unexplained by resort to provisions of section 69A r.w.s. 115BBE of the Act.

**The assessment was framed ex-parte u/s 144 of the Act, without considering the reply filed on the ITBA portal on 23.10.2019 by the appellant and without appreciating the fact that appellant is a commission agent and receives money from various persons on behalf of Bharti Airtel for purposes of making their mobile recharge etc. and the amount received from said persons is deposited in bank which is ultimately transferred to the credit of Bharti Airtel.**

However, Learned Assessing Officer failed to appreciate the said fact and proceeded to add a sum of cash deposited of Rs. 13,68,480/- in bank accounts during the period of demonetization.

3. The above was determined by assessment order no. ITBA/AST/S/144/2019-20/1022868318(1) dt. 22/12/2019 in terms of Section 144 of the Income Tax Act, 1961.

4. The assessee being aggrieved by the aforesaid assessment order dated 22/12/2019 preferred a first appeal before Ld. CIT(A) who by the impugned order has dismissed the appeal of the assessee.

5. The Ld. CIT(A) in the impugned order has held as follows:

*6. In the instance of the case the appellant failed to make any submissions in support of grounds of appeal, this gives rise to an undisputable conclusion that the assessee has got nothing more to say in this regard. I have gone through the record before me and based on the record I have decided to adjudicate the issue on the merits of the case. In the instant case the AO has rightly added Rs. 13,68,480/- u/s, 69A of the IT Act, 1961 to the total income of the assessee. Since no compliance was received from the part of the assessee after repetitive issuance of notices by the Department, therefore, the addition made by the Assessing Officer of Rs. 13,68,480/- is hereby confirmed.*

6. Assessee being aggrieved by the impugned order has filed an appeal before us in Form No. 36 and has raised following grounds of appeal in Form No. 36 which read as under:

- 1. That order passed u/s 250 of the Income Tax Act, 1961 by the Learned Commissioner of Income Tax (Appeals), NFAC, Delhi is against law and facts on the file in as much as he was not justified to decide **the appeal ex-parte.***
- 2. That CIT(A) gravely erred in **not deciding the appeal on merits.***

#### **Record of Hearing**

7. The hearing in the matter took place on 02/09/2024 when both the parties appeared before us and were heard on their respective contentions. The Ld. AR contended that the impugned order is exparte order and that it should be set aside back to the file of the Ld. CIT(A) for fresh order on denovo basis. The Ld. DR conquered with the submission of Ld. AR that impugned order is indeed exparte.

#### **Findings and Conclusions**

8. We have examined the records of the proceedings before Ld. AO and Ld. CIT(A). We notice that both the authorities have proceeded exparte. We observe

violation of the principles of natural justice on part of lower authorities. We therefore set aside the impugned order back to the file of the Ld. CIT(A) with a direction to give full and complete opportunity to the assessee and then to pass a speaking and reasoned order on merits. The assessee is directed to cooperate with Department in disposing off the appeal.

**Order**

9. The impugned order is set aside as and by way of remand.
10. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 06/09/2024

Sd/-

विक्रम सिंह यादव  
( VIKRAM SINGH YADAV )  
लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-

परेश म. जोशी  
( PARESH M. JOSHI )  
न्यायिक सदस्य / JUDICIAL 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