

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

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

आयकर अपील सं./ ITA No. **279/CHD/2024**

निर्धारण वर्ष / Assessment Year : 2011-12

Sahab Singh S/o Jaimal Singh Habri Road, Gamri Pundri, Kailthal 136026	Vs. बनाम	The ITO, Ward-2, Kaithal
स्थायी लेखा सं./PAN No: DBMPS6919G		
अपीलार्थी/ APPELLANT		प्रत्यर्थी/ RESPONDENT

(PHYSICAL HERING)

निर्धारिती की ओर से/Assessee by : Shri Pulkit Saini, Advocate

राजस्व की ओर से/ Revenue by : Dr. Ranjit Kaur, Addl. CIT, Sr.DR

सुनवाई की तारीख/Date of Hearing : 23.09.2024

उद्घोषणा की तारीख/Date of Pronouncement : 24.09.2024

आदेश/Order

Per Krinwant Sahay, A.M.:

The appeal in this case has been filed by the Assessee against the order dated 10.01.2024 of the Id. Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi.

2. Grounds of appeal are as under: -

1. *That the Ld. CIT (Appeals) erred on facts and law in upholding the impugned assessment*

order u/s 147 r.w.s 144, determining the income of assessee at Rs. 1,30,47,684.

2. *That the Ld. CIT (Appeals) has erred in law and on facts in upholding the impugned assessment order passed without assuming jurisdiction as_per law and in violation of mandatory conditions of section 147 to 151 of the Income Tax Act, 1961 and judicial precedents on the issue of notice.*
3. *That the Ld. CIT (Appeals) has erred in law id on facts in upholding the impugned assessment order wrongly addressed and without quoting the PAN of the assessee.*
4. *That the Ld. CIT (Appeals) has erred in law and on facts in invoking section 292BB to validate a defective notice not issued in the proper name of the assessee and the assessee not having waived the requirement for issue of a proper notice.*
5. *That the Ld. CIT (Appeals) has erred in law and on facts in not appreciating the documentary evidences produced by the assessee while sustaining the addition s/s 69 of the Act.*
6. *That the Ld. CIT (Appeals) has erred in law and on facts in confirming the addition of Rs. 1,30,40,000 without appreciating that the Assessment/ remand report has been made in a mechanical manner based on surmises and conjectures in violation of principles of natural justice.*

7. *That having regard to the facts and circumstances of the case, Ld. A.O. has erred in law and on facts in charging interest u/s 234A and 234B of the Income Tax Act, 1961.*
8. *That the appellant craves leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing.*

3. During the proceedings before us, the ld. Counsel for the Assessee submitted that the ex-parte assessment order was passed by the Assessing Officer u/s 144 of the Income Tax Act, 1961 (in short 'the Act'). Therefore, the Assessee had no occasion to file its reply before the A.O. During the appeal proceedings before the ld. CIT(A), the Assessee filed the same details which were sent to the Assessing Officer by CIT(A) for remand report but a copy of the same was never given to the Assessee to file its rejoinder. Therefore, the Counsel requested that the matter may be restored back to the file of Assessing Officer for which the ld. DR did not have any objection.

4. The ld. DR relied on the order of the authorities below.

5. We have considered the submissions made by the ld. Counsel of the Assessee and we have also considered the arguments made by the ld. DR. We find that the assessment order was passed ex-parte and so the Assessee had no occasion to file details before the A.O. During the appeal proceedings before the ld. CIT(A) whatever details were filed

were sent to the A.O. for remand report but a copy of the same was never confronted nor given to the Assessee to file its rejoinder. 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 24.09.2024.

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

Sd/-
(KRINWANT SAHAY)
Accountant Member

“आर.के.”

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