

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. **287/CHD/2024**

निर्धारण वर्ष / Assessment Year : 2017-18

Tarsem Lal Sharma, Village Dathwara, Distt. Una, H.P.	Vs. बनाम	The ITO, Ward Una H.P.
स्थायी लेखा सं./PAN No: DJYPS0688L		
अपीलार्थी/ APPELLANT		प्रत्यर्थी/ RESPONDENT

( PSYSICAL HEARING )

निर्धारिती की ओर से/Assessee by : Shri Sudhir Sehgal, Advocate  
राजस्व की ओर से/ Revenue by : Dr. Ranjit Kaur, Addl. CIT, Sr. DR

सुनवाई की तारीख/Date of Hearing : 25.09.2024  
उदघोषणा की तारीख/Date of Pronouncement : 26.09.2024

**आदेश/Order**

**Per Krinwant Sahay, A.M.:**

Appeal in this case has been filed by the Assessee against the order dated 20.02.2024 of the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi.

2. Grounds of appeal are as under: -

1. *That the order of the Ld. CIT(A) is against law and facts of the case on the file.*

2. *That the Ld. CIT(A) gravely erred in passing the appellate order without giving a proper opportunity of being heard.*
3. *That the Ld. CIT(A) has, gravely erred in sustaining the addition of Rs. 1,08,46,090/-, which deserves to be deleted as the assessee could not appear due to reasonable cause and had requested for adjournment which was not considered by Ld. CIT(A).*
4. *That on the facts and circumstances of the case, the Ld. CIT(A) gravely erred in sustaining the addition of Rs. 1,08,46,090/- on account of cash Deposits in bank account out of business receipts of the assessee without considering the facts of the case and without observing the principles of natural justice.*
5. *That the appellant begs to add or amend any ground of appeal before the appeal is heard and disposed off.*

3. At the very outset, the ld. Counsel of the Assessee submitted that this order was passed by the ld. CIT(A) ex-parte because some of the notices were sent only on I.T. Portal which could not be seen by the Assessee. The ld. Counsel has filed a written submissions on this issue, which is as under:-

*“It is submitted that, the accountant of the appellant had registered his email id i.e. harvindersharma21@gmail.com in the income tax portal of the appellant. The five notices for hearing have been sent by the worthy CIT(A) NFAC Delhi. The accountant of the appellant had applied two*

*adjournments on 28.10.2023 and 01.02.2024 as per copy of the evidence.*

.....

*However, further notices received at the email of the accountant and income tax portal of the appellant could not be checked by the accountant due to the fact that, the accountant is also submitting the affidavit which has been submitted on 24th of June, 2024 by DAK. In which he had stated the above said facts.*

*The worthy CIT(A) has not adjudicate the matter of the appellant on merits.”*

4. The Id. DR relied on the order of the CIT(A).
5. We have considered the findings given by the Id. CIT(A) in his appeal order for passing the ex-parte order and we find that the Id. CIT(A) has not passed this order on merits. Although the initial two notices were received by the Assessee for which they have filed adjournment letter but later on all the notices were issued by the CIT(A) on the I.T. Portal which could not be seen by the Assessee, therefore, the Assessee could not comply. The Id. Counsel further brought to the notice of the Bench the decision of the Hon'ble jurisdictional Punjab and Haryana High Court in the case of 'Munjal BCU Centre of Innovation and Entrepreneurship Vs CIT(E) Chandigarh', CWP No. 21028/2023 dated 4.3.2024 and requested that as the service of notice was solely on portal which could not be seen by the Assessee, therefore, as per the Hon'ble jurisdictional High

Court's decision in the above mentioned case, the Assessee may be presumed to have no knowledge of the proceedings and he further requested for sending this case back to the CIT(A) for re-adjudication.

5. The ld. DR has no objection as the request of the Assessee's Counsel was based on the judgement of the jurisdictional Punjab & Haryana High Court (supra).

6. We have considered the findings of the ld. CIT(A) in his appeal order and the submissions filed by the ld. counsel of the Assessee. We have also considered the arguments put before us by the ld. Counsel for the Assessee. Accordingly, in view of the above, in the interest of justice, the matter is remitted to the file of the CIT(A), 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 CIT(A). All pleas available under the law shall remain so available to the assessee. Ordered accordingly.

9. In the result, the appeal is allowed

Order pronounced on 26.09.2024.

**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