

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

HEARING THROUGH: PHYSICAL 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. 409/Chd/2024
निर्धारण वर्ष / Assessment Year : 2013-14

VEE AAR SECURITY PRINTERS Plot No. 111, EPIP Phase 2, Thana, Thana Baddi Solan – 173205, Himachal Pradesh	बनाम	The ACIT, Circle Parwanoo Himachal Pradesh
स्थायी लेखा सं. / PAN NO: AAGFV8032K		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारिती की ओर से/ Assessee by : None (Adjournment Application)
राजस्व की ओर से/ Revenue by : Dr Ranjeet Kaur, Sr. DR
सुनवाई की तारीख/ Date of Hearing : 11/09/2024
उदघोषणा की तारीख/ Date of Pronouncement : 25/09/2024

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 (hereinafter referred to as the "Act" for sake of brevity) as and by way of the second appeal before this Tribunal. The assessee is aggrieved by order no. ITBA/NFAC/S/250/2023-24/1060962827(1) dated 15/02/2024 passed by Ld. CIT(A) under section 250 of the Act which is hereinafter referred to as the "impugned order". The relevant AY is 2013-14 corresponding to previous year period from 01/04/2012 to 31/03/2013.

Factual Matrix

2. The assessee is a firm carrying on the business as a manufacture. The assessee had e filed its return of income for the A.Y 2013-14 declaring Rs. NIL income. The assessment of the assessee was completed under section 143(3) whereby net taxable income of the assessee was assessed at Rs. 3,00,000/- vide order dt. 30/12/2015. However the case was again selected for scrutiny under section 147 of the Act. The best judgment order was passed by Ld. AO which is dated 30/12/2018 in terms of section 144 r.w.s 147 of the Act whereby assessed income for tax was computed at Rs. 11,91,500/-/. There was addition made of Rs. 8,91,500/- to already assessed income of Rs. 3,00,000/- under section 143(3) vide earlier order dt. 30/12/2015. The assessment order dt. 30/12/2018 was carried in first appeal before the Ld. CIT(A) who by impugned order has dismissed the first appeal of the assessee. Being aggrieved by the said assessment order dt. 30/12/2018 passed under section 144 r.w.s 147 which was sustained by the impugned order of Ld. CIT(A) the assessee is before this Tribunal and has raised following grounds of appeal in Form 36 which is form of appeal to this Tribunal:

1. The Learned CIT(A) has wrongly confirmed the addition of Rs 891500 under section 68, when in fact the entries of cash deposit of Rs 227000/- on 02.02.2013, cash deposit of Rs 240000/- on 03.02.2013 and entry of Debit of Rs 500000/- on 21.02.2013 were added to arrive at the figure of Rs 891500/-. For the credit entries of cash deposit of Rs 227000/- and 240000/-, Mrs Pinki Devi has sufficient proof as follows:

A) On 22.02.2013 cash of Rs 227000/- was deposited out of cash withdrawal of Rs 285000/- on 18.02.2013 thus leaving a balance of Rs 58000/- with Pinki Devi.

B) On 23.02.2013 cash of Rs 240000/- was deposited which comprised of (a) Rs 58000/- out of cash balance of 22.02.2013 and balance Rs 182000/- out of the Income of Rs 198850/- during the FY 2012-13 for which ITR Copy is attached.

C) Entry of Rs 500000/- of 23.02.2013 was the loan given by Pinki Devi to Vee Aar Security Printers, which has been wrongly added as unexplained deposit under sec 68. In fact the entry of Rs 500000/- was debit entry in the bank account of Pinki Devi and not the credit which has been mistakenly taken as credit by the learned AO.

D) For all the above submissions Bank Statement highlighting the entries of Rs 227000/-, 240000/- and 500000/- is attached and Copy of ITR is also attached.

2. Any other ground or grounds as may be urged at the time of hearing.

"The Appellant craves leave to add, amend, alter vary and / or withdraw any or all the above grounds of Appeal."

Record of Hearing

3. The hearing in the matter was fixed for 11/09/2024 when an adjournment application dt. 10/09/2024 was placed before us by Registry wherein no reason was assigned for seeking adjournment accordingly the adjournment application was rejected as same was opposed by the Ld. DR too on some ground. Thereafter Ld. DR brought our notice that the impugned order is an exparte order as on 07/12/2023, 26/12/2023 and 22/01/2024 opportunities were afforded to the assessee but assessee did not avail of those opportunities for reasons best known to the assessee. We have also perused written submission dt. 10/09/2024 placed on record wherein it is stated that assessee never received any notice(s) from the office of Ld. CIT(A) as notice(s) went to old CA Vishal Gupta at his email Id i.e; vishalguptafca@gmail.com and assessee never received any notice(s) from CIT(A). The case was decided by the Ld. CIT(A) without hearing the assessee. Assessee has also contended that how they have appointed new CA.

Findings and Conclusion

4. We have perused the impugned order wherein in para 4.1 the Ld. CIT(A) has held as under:

4.1 The appeal was filed by the assessee on 28.01.2019 against order u/s 147 r.w.s 144 of the Act dated 30.12.2018 for the AY: 2013-14. In connection to the appeal, opportunities were provided to the appellant to substantiate his grounds of appeal on or before the following dates:

- 1)07.12.2023
- 2)26.12.2023
- 3)22.01.2024

On verification of the ITBA portal, it is observed that all the notices got successfully delivered to email: vishalguptafca@gmail.com. Against all these notices, appellant is not interested in filing any details during the appellate proceedings and avail the opportunity under the principle of natural justice. In response to the notices issued, even adjournment was not sought. In such situation, the only conclusion which can be drawn is that the appellant is not interested in pursuing the appeal.

We therefore hold that impugned order of Ld. CIT(A) is in violation of the principles of natural justice as assessee never received any notice(s) and on the contrary notice(s) went on email id of old CA Vishal Gupta whose email id was vishalguptafca@gmail.com. Under these circumstances we set aside the impugned order and remit the matter back to the file of the CIT(A) with direction to him to give one more opportunity to the assessee and then to pass a speaking and well reasoned order on merits of the dispute as expeditiously as possible. The assessee is directed to cooperate with the Department in early disposal of appeal and not to seek adjournment.

Order

5. The appeal of the assessee is allowed as and by way of remand back to the file of Ld. CIT(A).
6. Appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 25/09/2024

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