

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH

HEARING THROUGH: VIRTUAL 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. 252/Chd/2024
निर्धारण वर्ष / Assessment Year : 2018-19

Gurmail Singh H.No. 41, Village Basi Ise Khan, Banur, Punjab	बनाम	The ITO Ward 5(5) Chandigarh
स्थायी लेखा सं. / PAN NO: DINPS4755J		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारिती की ओर से/ Assessee by : Shri Parikshit Aggarwal, C.A
राजस्व की ओर से/ Revenue by : Shri Vivek Vardhan, JCIT, Sr. DR
सुनवाई की तारीख/ Date of Hearing : 26/09/2024
उद्घोषणा की तारीख/ Date of Pronouncement : 30/09/2024

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') as and by way of second appeal before this Hon'ble Tribunal. The relevant assessment year is 2018-19 and the corresponding previous year period is from 01/04/2017 to 31/03/2018. The assessee is aggrieved by the order No. ITBA/NFAC/S/250/2023-24/1059732234(1) dt. 16/01/2024 which is passed by the Ld. CIT(A) under section 25 of the Act, in first appeal.

Brief Factual Matrix

2. That by an order bearing No. ITBA/PNL/F/270A/2023-24 / 1056104833(1) dt. 14/09/2023 a penalty of Rs. 26,05,900/- under section 270A of the Act was imposed on assessee by Ld. AO. ON perusal of the order it is noticed that the order was an exparte order despite opportunities afforded to the assessee which were not availed of.

3. That the assessee being aggrieved by the aforesaid order dt. 14/09/2023 preferred a first appeal before Ld. CIT(A) in terms of Section 246A of the Act who by the impugned order has dismissed the appeal consequently order of Ld. AO dt. 14/09/2023 is sustained.

4. The assessee being aggrieved by the impugned order is before this Tribunal and interalia has complained of denial of principles of natural justice by Ld. CIT(A) in as much as no opportunity was afforded to him before passing the impugned order.

5. The hearing in the matter took place before us on 26/09/2024 when both the parties appeared before us and that they were heard. The Ld. AR has placed on record of this Tribunal a written submission dt. 24/09/2024 wherein the core issue of violation of principles of natural justice by not giving an opportunity is highlighted. It is contended that notice for hearing was sent on gurmail.banur@gmail.com which was not email mentioned in Form 35 i.e; singhharkiratat07281@gmail.com consequently no notice of hearing was ever received by the assessee and impugned order came to be passed exparte and that same should be set aside and matter should be remand back to the Ld. CIT(A) on denovo basis after affording an opportunity to assessee of representing case. It was further contended that quantum appeal is still pending. The Ld. DR more or less has conquered with the view of Id. AR.

6. We have perused the records, have heard both parties and we are of the considered view that impugned order is bad in law, illegal and not proper and is in violation of the principles of natural justice. We therefore set aside the same and remand the case back to the file of the Ld. CIT(A) for denovo consideration. We direct Ld. CIT(A) to give notice at appropriate email id address of assessee as given in Form No. 35 and also serve a notice in hard copy before adjudicating the appeal. The assessee is directed not to seek

unnecessary adjournment and to cooperate with Department. Appeal of the assessee be disposed off as expeditious as possible preferably within six months from date of receipt of this order. The appeal of the assessee is allowed as an by way of remand.

7. In the result, appeal of the Assessee is allowed for statistical purposes.

Order pronounced in the open Court on 30/09/2024

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. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar