

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

SHRI RAJESH KUMAR, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.52/CHD/2024

निर्धारण वर्ष / Assessment Year : 2016-17

Suman Saini, Vill.Mirzapur, Naraingarh (Ambala)	Vs. बनाम	The ITO, Ward 4, Ambala
स्थायीलेखासं./PAN No: GRPPS2125Q		
अपीलार्थी/APPELLANT		प्रत्यर्थी/RESPONDENT

(PHYSICAL HEARING)

निर्धारिती की ओर से/Assessee by : Shri Jaspal Sharma, Advocate

राजस्व की ओर से/ Revenue by : Dr. Ranjeet Kaur, Sr. DR

सुनवाई की तारीख/Date of Hearing : 03.10.2024

उद्घोषणा की तारीख/Date of Pronouncement : 04.10.2024

आदेश/Order

The assessee is in appeal before the Tribunal against the order dt 21.11.2023 of ld. Commissioner of Income Tax(Appeals), National Faceless Appeal Centre (NFAC), Delhi.

2. At the outset, it has been submitted by the ld. Counsel for the Assessee before the Bench that since the appeal has been decided ex-parte by the ld. CIT(A) and dismissed in limine because the Assessee did not receive any communication from the office of the Commissioner of Income Tax (Appeals), NFAC. The ld. Counsel

pointed out that the order passed by the CIT(A) is in contravention of the provisions of section 250(6) of the Income Tax Act, 1961 (in short 'the Act'), which mandates that the appeal shall be disposed off by the CIT(A) in writing and the CIT(A) shall state the points for determination, the decision thereon and also the reason for the decision. The Id. Counsel submitted that the ex-parte order decision of the CIT(A), there is a substantial miscarriage of justice also which is in violation of the principles of natural justice and for fair play, the Assessee may be granted one more opportunity to present his appeal on merit so that the decision can be made after taking the issues on merits. The Id. counsel also stated that it would be in the interest of justice and fair play, if the appeal is restored to the file of the Assessing Officer, as before the Assessing Officer also, the order was passed ex-parte when the notice issued by the Assessing Officer could not be served on the Assessee.

3. The Id. DR, on the other hand, relied on the order of the authorities below and submitted that non-appearance by the Assessee before the authorities below showed total non-cooperation in prosecution of the matter before both the authorities.

4. After hearing the rival contentions and perusing the material available on record, I note that the proceedings before the authorities attained finality as the Assessee failed to appear before the

authorities. I note that the ex-parte decision by the CIT(A) has been made in line in violation of the provisions of section 250(6) of the Act which mandates that the CIT(A) shall decide the appeal in writing, considering the point of determination, his decision thereon and also reasons for the said decision. I also note that before the A.O. also, the order issued was ex-parte order, and therefore, in the interest of justice , it would be reasonable and justifiable if the appeal is restored to the file of the Assessing Officer Accordingly, I restore the appeal to the file of the Assessing Officer for adjudication afresh on merits.

5. In the result, the appeal is allowed for statistical purposes.

Order pronounced on 04.10.2024.

Sd/-
(RAJESH KUMAR)
Accountant Member

“आर.के.”

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्डफाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar