

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'SMC' NEW DELHI
BEFORE MS MADHUMITA ROY, JUDICIAL MEMBER**

ITA No. 262/DEL/2024

Assessment Year: 2012-13

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| ANIL KUMAR, 10, NEAR BUS STAND HUDA COMPLEX, SIRSA, HARYANA-125 055 | Vs. | INCOME TAX OFFICER, WARD, SIRSA |
| PAN :ANHPK2367C | | |
| (Appellant) | | (Respondent) |

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|---------------|---------------------------|
| Assessee by | Shri Parth Singhal, CA |
| Department by | Shri Sanjay Kumar, SR, DR |

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| Date of hearing | 21.10.2024 |
| Date of pronouncement | 29.10.2024 |

ORDER

PER MADHUMITA ROY, JUDICIAL MEMBER

The instant appeal filed by the assessee is directed against the order dated 29.11.2023 passed by the CIT(A) National Faceless Appeal Centre(NFAC), New Delhi arising out of the order dated 20.12.2019 passed by the Income Tax Officer, Ward-1, Sirsa, under Section 271(1)(c) of the Income Tax Act, 1961 for Assessment Year 2012-13.

2. At the time of hearing the instant appeal the Learned Counsel appearing for the assessee submitted before us that the order passed by the CIT(A) is an ex-parte one since no complaint was made by the assessee against the two notices dated 20.09.2023 and 15.11.2023 under Section 250 of the Act. It was further submitted that during the course of appellate proceedings the Chartered Accountant namely Shri Sudhir Kumar Jain appointed by the assessee, suffering from Hepatitis C was hospitalized and subsequently suffered cancer and ultimately expired on 03.5.2024. Due to such unavoidable circumstances the assessee missed the hearing and failed to attend before the Learned CIT(A). In support of his submission he has further filed an affidavit affirmed by the assessee before us dated 17.10.2024 contents whereof has not been objected by the Learned DR with all his fairness.

3. Having heard the Learned Counsel appearing for the parties, having regard to the facts and circumstances of the matter, particularly the reasons for unability to attend before the First Appellate Authority having been explained by the assessee supported by the affidavit which seems to be genuine the order passed by the Learned CIT(A) is not found to be acceptable and

hence quashed. However, in order to prevent the mis-carriage of justice I find it fit and proper to grant further opportunity of being heard to the assessee before the First Appellate Authority to place the matter effectively and therefore the issue is restored to the file of the Learned CIT(A) for deciding the same afresh upon granting an opportunity of being heard to the assessee and upon considering the evidence on record or any evidence which the assessee may choose to file at the time of hearing of the appeal. With the aforesaid observation assessee's appeal is allowed for statical purposes.

Order pronounced in the open court on 29th October, 2024.

**Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER**

Dated: 29th October, 2024

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi