

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

**BEFORE SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER
& SHRI PARESH M JOSHI, JUDICIAL MEMBER**

आयकर अपील सं./ ITA No. 1140/CHD/2016

निर्धारण वर्ष / Assessment Year : 2009-10

Sh. Anwar UI. Haq Haffiz, # 2141, Sector 35-C, Chandigarh	Vs. बनाम	The ITO, Ward 4 (4), Chandigarh
स्थायी लेखा सं./PAN No: ASWPS3865R		
अपीलार्थी/ APPELLANT		प्रत्यर्थी/ REPSONDENT

(Physical Hearing)

निर्धारिती की ओर से/Assessee by : Shri Tej Mohan Singh, Advocate,
राजस्व की ओर से/ Revenue by : Shri Vivek Vardhan, JCIT, Sr. DR

सुनवाई की तारीख/Date of Hearing : 29.10.2024
उदघोषणा की तारीख/Date of Pronouncement : 21.11.2024

आदेश/Order

Per Krinwant Sahay, A.M.:

The appeal in this case has been filed by the Assessee against the order dated 08.08.2016 of the ld. Commissioner of Income Tax (Appeals)-2, Chandigarh.

2. Earlier, in this case, an ex-parte order was passed on 20.09.2017 and against that ex-parte order a Misc. Application bearing M.A. No. 151/CHD/2019 (in ITA No. 1140/Chd/2016) for A.Y. 2009-10 was filed by the Assessee praying for recalling of the ex-parte order dated 20.09.2017. The hearing took place on 7.7.2022 in which the ex-parte order of the Tribunal dated 20.09.2017 was recalled vide order passed on 19.07.2022 in M.A. No. 151/Chd/2019 Hence, this appeal is before us.

3. Grounds of appeal are as under:-

1. *That the impugned order is against facts and law.*
2. *That no proper and reasonable opportunity has been granted to the appellant to represent his case.*
3. *That the Worthy CIT(A) has erred in confirming the addition of Rs. 2,38,03,000/- as unexplained cash deposits as the appellant had duly explained the source of deposit in the bank accounts along with supporting evidence.*
4. *That the worthy CIT(A) has erred in confirming the addition of Rs. 2,38,03,000/- as unexplained cash deposit without appreciating the facts in correct perspective and ignoring all submissions made before him. Therefore, the impugned order is not only illegal but it is also not just and fair and it is contradictory to settled law.*

5. *That Assessee had furnished all relevant particulars relating to deposits in his bank accounts but Worthy CIT(A) without appreciating the facts in correct perspective sustained the additions in totally arbitrary manner.*
6. *That Authorities below have made no independent enquires and/or efforts and not placed on record or discussed any sustainable evidence to dislodge the version of the assessee.*
7. *That Authorities below did not confront the assessee with any adverse evidence and/or information used by them against the assessee before passing the order. That Ld. Assessing officer had not confronted the assessee with any alleged discrepancies regarding the bank accounts mentioned in the affidavits submitted by the assessee.*
8. *That Authorities below had relied on irrelevant and/or inadmissible material.*
9. *That Interest free loan were received through account payee cheques from the persons who advanced interest free loan to assessee and assessee had filed affidavits from the said persons stated that they had given interest free loan to assessee.*
10. *That no material was brought on record by the Assessing officer to show that the affidavits filed by the aforesaid persons were not genuine.*
11. *That Assessing officer had issued notices/summons to Sh. Vinod Kumar, Sh. Vikas Malhotra and M/s Max Life Soft Network but the same remained uncompiled with. The Assessing officer did not initiate any action against them for*

non-compliance, despite possessing enough powers to enforce their attendance and provide documents and summon evidence etc.

12. *That the appellant craves leave to amend, alter or add to above grounds of appeal, before the appeal is heard and disposed off.*

13. *It is, prayed that appeal may kindly be allowed.*

4. During the proceedings before us, the Counsel of the Assessee requested the Bench that no proper and reasonable opportunity was granted to the Assessee by the Assessing Officer to represent this case. Therefore, the Counsel requested that in the interest of justice, the case may be remanded back to the A.O. for fresh adjudication.

5. The ld. DR, had no objection to this request made by the Assessee.

6. We have considered the request of the Counsel of the Assessee and his arguments for remanding the matter back to the file of the A.O. and after hearing the arguments of the Counsel of the Assessee as well as of ld. DR, we are of the considered view that in the interest of justice, the matter is remitted to the file of the A.O., 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 A.O. All

pleas available under the law shall remain so available to the assessee.

Ordered accordingly.

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

Order pronounced on 21.11.2024.

Sd/-
(PARESH M JOSHI)
Judicial Member

Sd/-
(KRINWANT SAHAY)
Accountant Member

“आर.के.”

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