

आयकर अपीलिय अधिकरण, चण्डीगढ न्यायपीठ "एस.एम.सी" , चण्डीगढ
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCHES, "SMC" CHANDIGARH

श्री विक्रम सिंह यादव, लेखा सदस्य
BEFORE: SHRI. VIKRAM SINGH YADAV, AM

आयकर अपील सं. / ITA No. 14/Chd/2024
निर्धारण वर्ष / Assessment Year : 2010-11

Mewa Singh Village Sante Majra P.O, Landran Tehsil, Kharar, Mohali, Punjab	बनाम	The ITO Ward-6(4), Mohali
स्थायी लेखा सं./PAN NO: BHYP5531E		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारित की ओर से/Assessee by : Shri Parikshit Aggarwal, C.A.
राजस्व की ओर से/ Revenue by : Shri Ranjit Kaur, Addl. CIT

सुनवाई की तारीख/Date of Hearing : 08/10/2024
उद्घोषणा की तारीख/Date of Pronouncement : 20/11/2024

आदेश/Order

PER VIKRAM SINGH YADAV, AM:

This is an appeal filed by the Assessee against the order of the Ld. CIT(A)/ NFAC, Delhi dt. 05/09/2023 pertaining to Assessment Year 2010-11.

2. At the outset, it is noted that there is a delay in filing the present appeal by 63 days and also the fact that order has been passed *ex-parte* by the Ld. CIT(A).

2.1 In this regard, the Ld. AR has drawn our reference to the condonation application filed by the assessee alongwith Affidavit placed on record. It was submitted that the assessee is an agriculturist and not very well educated and he filed the appeal before the Ld. CIT(A) through his Counsel. However there was lack of diligence on the part of the Counsel in attending to the proceedings resulting in passing of the *ex-parte* order.

2.2 It was submitted that the assessee originally filed appeal before the Ld. CIT(A) on 13/04/2018, thereafter, the first notice was issued on 26/12/2019 and second notice was issued on 24/12/2020 thereupon the revised grounds of

appeal were filed by his previous Counsel. Thereafter, no notice of hearing under section 250 was issued till 17/05/2023. Thereafter, five notices were issued with a short span during 17/05/2023 to 16/08/2023 and during this period, due to lack of diligence on the part of the Counsel, the notices couldn't be responded to and thereafter, the assessee had hired a new Counsel and the new Counsel was in the process of collecting the necessary information and sought adjournment to the notice dt 20/06/2023, however the Ld. CIT(A) without adjourning the matter any further went ahead and passed an ex-parte order. It was submitted that the assessee was diligent and had appointed another Counsel and was in the process of gathering the necessary documents and inspite of these efforts, the necessary documents could not be complied within the time frame granted and which has resulted of passing of the ex-parte order. It was submitted that the non-compliance to the initial notices was totally unintentional and is not indicative of any deliberate attempt to evade or obstruct the appellate proceedings. It was submitted that due to lack of diligence of the earlier Counsel and appointment of the new Counsel, even the order was not communicated to the assessee either by the Counsel or from the office of the Ld. CIT(A) and it is only at subsequent point in time, the assessee came to know about this order so passed by the Ld. CIT(A) and thereafter, the assessee took the necessary steps in terms of filing the present appeal. It was accordingly submitted that in the interest of natural justice, the delay in filing the appeal may be condoned and the matter be set-aside to the file of the Ld CIT(A) for fresh adjudication and it was submitted that the assessee shall fully cooperate in early disposal of the appeal before the Ld. CIT(A).

3. The Ld. DR is heard who has not raised any specific objection whether the delay is condoned and the matter is set aside to the file of the Ld. CIT(A).

4. After hearing both the parties and considering the material available on the record, we find that there was reasonable cause for the delay in filing

the present appeal as the assessee has been diligent enough to realise lack of diligence on part of its Counsel and has taken steps to appoint the new Counsel and for the delay so happened on account of the same, the assessee cannot be put to jeopardy and denied his lawful right to be heard on merits. The delay is hereby condoned and the matter is set-aside to the file of the Ld. CIT(A) to decide the same afresh as per law after providing reasonable opportunity to the assessee.

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

(Order pronounced in the open Court on 20/11/2024)

Sd/-

विक्रम सिंह यादव
(VIKRAM SINGH YADAV)
लेखा सदस्य / ACCOUNTANT 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