

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

BEFORE SHRI RAJPAL YADAY, VICE PRESIDENT &  
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER

आयकर अपील सं./ **ITA No. 658/CHD/2024**

निर्धारण वर्ष / Assessment Year : 2012-13

Prince Kalra, House No.119, Patiala Gate, Sangrur, Distt.Sangrur	Vs. बनाम	DCIT, Jurisdictional officer, The ITO, Ward, Sangrur
स्थायी लेखा सं./PAN No: BURPK0672E		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

&

आयकर अपील सं./ **ITA No. 1127/CHD/2024**

निर्धारण वर्ष / Assessment Year : 2012-13

Prince Kalra, House No.119, Patiala Gate, Sangrur, Distt.Sangrur	Vs. बनाम	DCIT, Jurisdictional officer, The ITO, Ward, Sangrur
स्थायी लेखा सं./PAN No: BURPK0672E		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Sh. Sudhir Sehgal, Advocate  
राजस्व की ओर से/ Revenue by : Sh. Ved Parkash Kalia, Sr.DR

सुनवाई की तारीख/Date of Hearing : 26.11.2024

उद्घोषणा की तारीख/Date of Pronouncement : 28.11.2024

## आदेश/Order

### Per Bench:

The Assessee is in appeal before the Tribunal against the order of the Id. CIT(A) dated 31.3.2024 passed for A.Y. 2012-13.

2. Though the Assessee has taken 06 grounds of appeal but his grievance revolves around with single issue namely that the Id. CIT(A) has erred in confirming the addition of Rs. 46,26,020/- which was added by the Assessing Officer (A.O.) with the aid of section 68 on account of unexplained cash deposited in the bank account.

3. With the assistance of Id. Representatives, we have gone through the record carefully. A perusal of the record would indicate that both the orders are ex-parte. The Assessee has filed his return of income on 8.10.2012 declaring total income of Rs. 1,88,380/-. It is not ascertainable whether the case of the Assessee was selected for scrutiny assessment or not. The case of the Assessee was reopened by issuance of a notice dated 30.03.2019 u/s 148 of the Income Tax Act, 1961 (in short 'the Act'). Thereafter, notices u/s 142(1) of the Act were issued which according to the Assessee could not be served on him and the Assessing Officer has passed the ex-parte assessment.

4. The appeal of the CIT(A) did not bring any relief to the Assessee. The Id. First Appellate Authority has dismissed the appeal of the Assessee for want of prosecution.

5. On due consideration of the above facts and circumstances, we are of the view that addition of Rs. 46,46,020/- was made by way of an ex-parte assessment which has also been upheld by way of an ex-parte order at the end of the ld. CIT(A). The ends of justice would meet if we set aside both these orders to the file of the ld. Assessing Officer for re-adjudication because sub clause 6 of section 250 do contemplate that the ld. CIT(A) has to determine the point in dispute and thereafter record reasons on those points. This procedure has not been followed in the present case. If the dispute is being set aside to the file of the CIT(A) then it would increase the multiplicity of litigation because assessment order was ex-parte and CIT(A) would have to call for a remand report from the Assessing Officer on the material to be submitted by the Assessee; Therefore, we deem it appropriate to set aside the issued to the file of the Assessing Officer for fresh adjudication. Accordingly, the appeal of the Assessee stands allowed for statistical purposes.

**ITA No.1127/Chd/2024:**

6. This appeal is also directed by the Assessee against the order of the ld. CIT(A) dated 31.03.2024 passed for A.Y. 2012-13. The Assessee has challenged levy of penalty u/s Section 271 (1) (c) of the Income Tax Act. The grievance of the Assessee is that ld. CIT(A) has erred in confirming the penalty of Rs. 13,40,527/-. It is pertinent to

note that this penalty is being computed on the quantum addition of Rs. 46,46,020/-. This addition has already been set aside by us in ITA No. 658/Chd/2024. Therefore, penalty does not have any foundation to stand. We deem it appropriate to set aside both the orders, i.e., Assessing Officer as well as of CIT(A) vide which penalty was levied and confirmed. We restore this issue also to the file of the A.O. Ld. A.O. shall re-adjudicate this issue after determination of income of the Assessee in the quantum proceedings. It is for the Assessing Officer to visit the Assessee with the penalty or not after the determination of taxable income of the Assessee.

7. In the result, both the appeals are allowed for statistical purposes.

Order pronounced on 28.11.2024

Sd/-  
( **KRINWANT SAHAY** )  
**Accountant Member**

Sd/-  
( **RAJPAL YADAV** )  
**Vice President**

“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