

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

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER**

**आयकर अपील सं./ ITA No. 361/CHD/2024**

**निर्धारण वर्ष / Assessment Year : 2011-12**

Rajwinder Singh, VPO Dhulkot, Ghugrana, Ludhiana	बनाम	The ITO, Ward 1 (3), Ludhiana
स्थायी लेखा सं./PAN NO: CUZPS4045L		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : None

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

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**आयकर अपील सं./ ITA No. 410/CHD/2024**

**निर्धारण वर्ष / Assessment Year : 2012-13**

Amarjeet Singh, Near Firolpur Road, Tiwan, Siwan Kaithal	बनाम	The ITO, Ward 1, Kailthal
स्थायी लेखा सं./PAN NO: GRAPS0935M		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : None

राजस्व की ओर से/ Revenue by : Shri Vivek Vardhan, JCIT

सुनवाई की तारीख/Date of Hearing : 07.11.2024

उदघोषणा की तारीख/Date of Pronouncement : 03.12.2024

**आदेश/Order**

The captioned appeals have preferred by the different assesseees against the separate orders dated 12.01.2024 and

30.01.2024 respectively passed by the Ld. Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'CIT(A)'].

2. Since the facts and issue involved in both the appeals are identical, hence the same have been heard together and are being disposed of by this common order.

3. This appeal in the case of Rajwinder Singh (ITA No. 361/Chd/2024) is barred by 24 days, whereas, the appeal of the Assessee in the case of Amarjeet Singh, ITA No. 410/Chd/2024 is barred by 06 days. Considering the shortness of the delay, the same is hereby condoned in both the cases.

4. No one has put in appearance on behalf of the Assessee despite notices in both the cases.

5. An adjournment application has been filed in the case of Assessee Shri Rajwinder Singh in ITA No. 361/Chd/2024. It is to be noted that the identical adjournment applications have been filed by the Assessee several times. However, considering the short issue involved in this appeal, I proceed to decide the present appeal after hearing the ld. DR and going through the record.

6. **ITA No.361/Chd/2024** (A.Y. 2011-12) is taken as a lead case for the purpose of narration of facts.

7. The brief facts of the case are that the Assessing Officer received information that the Assessee had deposited cash of Rs.6,55,694/- in his bank account. Since the Assessee did not file return of income, therefore, the Assessing Officer reopened the assessment u/s 147 read with section 148 of the Income Tax Act, 1961 (in short 'the Act') and show caused the Assessee as to why the said amount deposited be not treated as unexplained income of the Assessee. However, the Assessee did not file any reply. The Assessing Officer (A.O.). therefore, made the impugned addition treating the said amount as unexplained income of the Assessee in the ex-parte assessment order passed u/s 144 of the Act.

8. In the first appeal, the Assessee pleaded before the Id. CIT(A) that the income of the Assessee was below the taxable limit. It was further pleaded that the Assessee was an illiterate person and was an agriculturist and did not know nitty gritty of the tax proceedings. However, the Id. CIT(A) observed that the Assessee was having taxable income because of the bank deposit in his account and further that the Assessee had not deposited the advance tax payable by him. He, therefore, did not adjudicate the appeal on

merits but dismissed the appeal of the Assessee as not admissible for non deposit of advance tax.

9. After hearing the Id. DR, I am of the view that the Id. CIT(A) was not justified in not admitting the appeal of the Assessee for adjudication. The Assessee in this case, from the very beginning has stated that he is an agriculturist and that his income was below taxable limit. Therefore, the Id. CIT(A) was supposed to consider the aforesaid submissions of the Assessee. Every deposit in the bank account cannot always be an income of the Assessee. Therefore, the condition of deposit of advance tax could not be imposed blindly without considering the contention of the Assessee that his income was below the taxable limit. The Assessee, therefore, was required to be given a reasonable opportunity of hearing by the Id. CIT(A). Further, as noted above, the impugned assessment order is also an ex-parte assessment order. In my view, the interests of justice will be well served if, the Assessee is given an opportunity to present his case before the Assessing Officer. Accordingly, the impugned order of the CIT(A) is set aside and the matter is restored to the file of the Assessing Officer for de novo assessment.

10. Needless to say that the Assessing Officer will give proper opportunity to the Assessee to present his case and to furnish necessary evidences and details. The Assessee is also directed to present his case before the Assessing Officer as and when asked for and will not contribute in unnecessary delay.

11. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

**ITA No. 410/Chd/2024 (A.Y. 2012-13)**

12. In this appeal, the Assessee is aggrieved by the action of the CIT(A) in confirming he addition of Rs. 30 lakhs made by the A.O. on account of unexplained bank deposits in the bank account of the Assessee. The facts and issue involved in this case are identical to that have been discussed above while adjudicating ITA No. 361/Chd/2024.

13. In view of my observations made above, this appeal is also restored to the file of the A.O. for de novo assessment. Needless to say that the Assessing Officer will give proper opportunity to the Assessee to present his case and to furnish necessary evidences and details. The Assessee is also directed to present his case before the Assessing Officer as and when asked for and will not contribute in unnecessary delay.

14. In the result, both the captioned appeals are treated as allowed for statistical purposes.

Order pronounced on 03.12.2024.

Sd/-  
**(SANJAY GARG)**  
**Judicial Member**

“आर.के.”

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्डफाईल/ Guard File

आदेशानुसार/ By order,  
सहायकपंजीकार/ Assistant Registrar