

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

HEARING THROUGH: PHYSICAL MODE

श्री विक्रम सिंह यादव, लेखा सदस्य एवं श्री परेश म. जोशी, न्यायिक सदस्य  
BEFORE: SHRI. VIKRAM SINGH YADAV, AM & SHRI. PARESH M. JOSHI, JM

आयकर अपील सं. / ITA No. 767/Chd/2024  
निर्धारण वर्ष / Assessment Years : 2017-18

Shri Gurcharan Singh C/o Ravinder Singh Baba Deep Singh Nagar, Near Indian National Public School, Link Road, Mullanpur V.P.O Mandi, Ludhiana, Punjab-141101	बनाम	The ITO 6(1), Ludhiana
स्थायी लेखा सं. / PAN NO: BRZPS2163R		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारित की ओर से/Assessee by : Shri Sudhir Sehgal, Advocate  
राजस्व की ओर से/ Revenue by : Shri Vivek Vardhan, JCIT, Sr. DR

सुनवाई की तारीख/Date of Hearing : 05/12/2024  
उद्घोषणा की तारीख/Date of Pronouncement : 10/12/2024

**आदेश/Order**

**PER VIKRAM SINGH YADAV, A.M. :**

This is an appeal filed by the Assessee against the order of the Ld. CIT(A)/NFAC, Delhi dt. 29/06/2024 pertaining to Assessment Year 2017-18.

2. In the present appeal, the Assessee has raised the following grounds of appeal:

1. That the Ld. CIT(A) has erred in confirming the levy of penalty u/s 271AAC(1) amounting to Rs.2,80,484/- in an ex-parte order passed by him.

2. That no notice of hearing was served upon the assessee and the assessee being NRI, having British Passport and permanent resident of United Kingdom, was not knowing about the hearing before the Ld. CIT(A) and, therefore, he was prevented by sufficient and reasonable cause, in not appearing before the Ld. CIT(A).

3. That the Ld.CIT(A) has failed to appreciate that the quantum addition as made by the Assessing Officer has since been set aside to the file of the Assessing Officer vide order, dated 19.03.2024, thus, the very basis of levy of penalty u/s 271AAC(1) is not in order and, as such, the levy of penalty be deleted.

4. That the levy of penalty u/s 271AAC(1) is against the facts and circumstances of the case.

5. *That the appellant craves leave to add or amend the grounds of appeal before the appeal is finally heard or disposed off."*

3. During the course of hearing, the Id AR submitted that this appeal is filed against the ex-parte order passed by Id CIT(A), NFAC confirming the penalty levied by the AO u/s 271AAC on account of so-called concealment of income assessed vide order u/s 144 r.w.s 148 of the Income Tax Act, 1961 ('the Act'). It was submitted that the assessee is a NRI individual, who is having British Passport and permanent resident of United Kingdom and re-assessment in the case of the assessee was framed vide an ex-parte order dated 31.03.2022 making an addition of Rs. 48,38,588/-. The assessee filed an appeal before Id CIT(A) NFAC and vide an ex-parte order dated 31.08.2023, the Id CIT(A) confirmed the addition made by the AO. Thereafter, the assessee filed an appeal before the Chandigarh Bench and the quantum appeal of the assessee has been set aside to the file of the AO to be decided afresh by the Bench vide order dated 19.03.2024 in ITA No. 634 to 643/Chd/2023 and a copy of the order was placed on record. It was submitted that in the interest of justice and equity, the matter under appeal against the penalty order may, please be set aside to the file of the Assessing Officer and the Assessee assures full cooperation in respect of the proceedings before the AO concerned.

4. The Id. D.R didn't raise any specific objection where the matter is remanded to the file of AO.

5. We have heard the rival contentions and perused the material available on record. In ITA No. 634 to 643/Chd/2023 dated 19/03/2024, the Coordinate Bench has remitted the quantum matters to the file of the AO and the relevant findings therein read as under:

*"6. We have heard both the parties and perused the material available on record. We have gone through the order of the Id. CIT (A) and find that the Id. CIT(A) has dismissed the appeal of the Assessee ex-parte by confirming the order passed by the Assessing Officer, without considering the material available on record, and also without giving due opportunity of hearing to the Assessee, under the mistaken impression that the notices sent on e-mail were served upon the Assessee whereas, the notices were served on the Counsel of the assessee who being in police custody couldn't respond to the said notices and communicate with the assessee. The Assessee further deposed that there was no willful intention on his part in non-replying to the notices. The contents of the affidavit have*

not been disputed. No material has been brought on record by the Id. DR to the contrary. As such, an opportunity of hearing requires to be given to the Assessee to represent his case fully before the Id. CIT(A). Even otherwise, it is trite [*S. VeluPalandar Vs. DCIT*' 83 ITR 683 (Mad.)] and incumbent on the authority to decide an appeal on merit in accordance with the principles of natural justice.

7. Further, it is noted that even before the AO, the assessee couldn't appear due to covid lockdown and the fact that he was not physically present in India at the relevant point in time resulting in ex-parte assessment and penalty orders being passed by the AO.

8. In view of the above, in the interest of justice, the matter in all these cases are remitted to the file of the AO, 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 AO. All pleas available under the law shall remain so available to the assessee. Ordered accordingly."

6. In view of the above, the present matter is also set-aside to the file of the AO to examine a fresh as per law after providing reasonable opportunity to the assessee.

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

Order pronounced in the open Court on 10/12/2024.

**Sd/-**  
**परेश म. जोशी**  
**(PARESH M. JOSHI)**  
**न्यायिक सदस्य / JUDICIAL MEMBER**

**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

आदेशानुसार/ By order,  
सहायक पंजीकार/ Assistant Registrar