आयकर अपीलीय अधिकरण,चण्डीगढ़ न्यायपीठ “एकल” चण्डीगढ़

IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH
BENCH “SMC” CHANDIGARH

श्री संजय गर्ग, न्यायिक सदस्य
BEFORE: SH. SANJAY GARG, JUDICIAL MEMBER

आयकर अपील सं./ ITA No. 494/CHD/2025
निर्धारण वर्ष / Assessment Year : 2018-19

Shri Vishal Kumar, H.No. C-7-287, Gandhi Dham, Jagadhri.	बनाम	The ITO, Ward-5, Yamuna Nagar.
स्थायी लेखा सं./PAN NO: AVJPK7057K		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Shrawan Kumar Gupta, Advocate
राजस्व की ओर से/ Revenue by : Dr. Ranjit Kaur, Addl. CIT, Sr.DR

सुनवाई की तारीख/Date of Hearing : 03.11.2025
उदघोषणा की तारीख/Date of Pronouncement : 04.11.2025

HYBRID HEARING

आदेश/ORDER

The present appeal has been preferred by the assessee against the order dated 25.04.2024 of the Commissioner of Income Tax (Appeals) NFAC, Delhi [in short ‘the CIT (Appeals)] pertaining to 2018-19 assessment year.

2. The appeal is time barred by 215 days. A separate application-cum-affidavit has been filed for condonation of delay. After considering the submissions made in the said

affidavit, delay in filing the present appeal is hereby condoned.

3. The assessee in this appeal is aggrieved by the action of the CIT (Appeals) in confirming the addition of Rs.2,55,016/- made by the Assessing Officer (in short 'the AO') by assessing the business income of the assessee u/s 44AD of the Income Tax Act.

4. The brief facts of the case are that the assessee filed his return of income declaring income of Rs.2,75,320/- which included the income of Rs.2,55,016/- taken under the head 'Business & Profession' and offered u/s 44AD of the Income Tax Act. However, later on, it came to the knowledge of the assessee that the tax consultant of the assessee had wrongly included the aforesaid income of some other person into the return of the assessee. The assessee, immediately filed revised computation wherein the income from remuneration of partnership firm was shown at Rs.10,04,782/- and interest income of Rs.3013/- and further income from other sources of Rs.17,304/-, totaling Rs.10,25,100/-. The assessee also deposited the self-assessed tax on the said income and pleaded before the AO that the assessee did not have any business income of Rs. 2,55,016/- which was wrongly offered by the tax consultant u/s 44AD of the Income Tax Act. It

was, therefore, requested to the AO not to add or assess the aforesaid business income of Rs.2,55,016/-, However, the AO did not agree with the contention of the assessee. He not only assessed the income offered by the assessee of Rs.10,04,782/- as remuneration received from partnership, Rs.3013/- as interest of partner's capital and further Commission Income at Rs.17,304/- but also included aforesaid income of Rs.2,55,016/- in the same and assessed the total income at Rs.12,80,120/-.

5. Being aggrieved by the said order of the AO, the assessee preferred appeal before the CIT (Appeals), but remained unsuccessful.

6. I have gone through the record carefully. This case, apparently, is an example of misuse of the authority by the Income Tax Authorities. The assessee initially had offered income of Rs.2,72,320/- only. The assessee later on realized that the tax consultant had declared the income which did not belong to the assessee. The assessee, thereafter, offered almost five times of the income earlier declared by his consultant at Rs.10,25,100/- and also paid the due taxes. This was enough for the assessee to show his bonafide. However, not only the AO but also the ld.CIT (Appeals) included the amount of Rs.2,55,016/- into the income of the

assessee despite the assessee being time and again pleading that the said amount was not the income of the assessee. It has been time and again held that Income Tax Authorities should charge legitimate taxes from the taxpayers and instead of punishing the assessees for their bonafide mistakes, they should rather assist the assessees in offering and assessing their correct income. However, the AO in this case has miserably failed to perform his duties and in assessing the true and correct income of the assessee, rather punished the assessee for his bonafide mistake. Under the circumstances, the impugned addition made by the AO is not sustainable and the same is ordered to be deleted.

7. In the result, appeal of the assessee stands allowed.

Order pronounced on 04th November,2025.

Sd/-

(संजय गर्ग)
(SANJAY GARG)
न्यायिक सदस्य/ Judicial Member

“Poonam”

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

Assistant Registrar