104+222 (5 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CWP-26487-2022 (O&M)
Date of Decision:14.11.2024

SARBJIT SINGH ....*Petitioner*
V/s.
UNION OF INDIA AND OTHERS ....*Respondents*

2. CWP-28477-2022 (O&M)

SARBJIT SINGH ....*Petitioner*
V/s.
UNION OF INDIA AND OTHERS ....*Respondents*

3. CWP-28555-2022 (O&M)

SARBJIT SINGH ....*Petitioner*
V/s.
UNION OF INDIA AND OTHERS ....*Respondents*

4. CWP-3705-2023 (O&M)

SARBJIT SINGH ....*Petitioner*
V/s.
UNION OF INDIA AND OTHERS ....*Respondents*

5. CWP-8222-2023 (O&M)

SARBJIT SINGH ....*Petitioner*
V/s.
UNION OF INDIA AND OTHERS ....*Respondents*

CORAM:* *HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJAY VASHISTH

Present Mr. Sandeep Goyal, Advocate
Mr. Peyush Pruthi, Advocate and
Mr. Sameesh Bassi, Advocate for the petitioner(s).

Ms. Urvashi Dhugga, Senior Standing Counsel,
for the respondent No.2 and 3.

Mr. Yogesh Putney, Senior Standing Counsel, with
Mr. Vaibhav Gupta, Standing Counsel
for the respondent No.4.

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SANJEEV PRAKASH SHARMA, J. (Oral)

CM-15144-CWP-2024 in CWP-28555-2022

1. Application is allowed and the written statement on behalf of respondent No.2 is taken on record.

MAIN CASES

2. This order shall dispose of these five connected Writ Petitions as the issue involved in these Writ Petitions is common.

3. These Writ Petitions have been filed for the same petitioner-Assessee raising a grievance that the show cause notices were issued to him without the PAN and were not received by him.

4. Learned counsel for the petitioner submits that the petitioner is possessing PAN No.BNYPS3133E, however, after the show cause notices were issued without the PAN, orders have been passed on PAN No.OREPS4207Q, and has also, therefore, not been addressed to the petitioner. Resultantly, the petitioner has been made to face the orders which were not communicated to him and he could not file any reply to the show cause notices.

5. Learned counsel for the petitioner submits that considering the principal of *audi alteram partem* as enshrined and inherent in the procedure laid down for the purpose of assessment under Section 144 of the Income Tax Act, 1961 (for short “the Act”), it is submitted that if the petitioner is issued show cause notices with PAN No. which the petitioner originally possesses, he would be able to file his reply and the respondents will be left free to issue fresh orders.

6. Learned counsel for the respondents submits that the PAN which the petitioner alleges to be having in possession earlier, was not brought to the notice of the Income Tax authorities and they, therefore, were prevented from issuing the show cause notices at the said PAN. Learned counsel for the respondents further submits that it is only later on that the PAN was communicated to the Income Tax authorities.

7. We find that the orders have been passed by the Income Tax authorities on the self created PAN without addressing to PAN No.BNYPS3133E held by the petitioner. We, therefore, deem it appropriate to ***dispose of*** all these connected Writ Petitions with directions to the respondent No.2-Deputy Commissioner of Income Tax, Circle-1, International Taxation, Chandigarh to issue fresh show cause notice relating to the assessment years 2015-16, 2016-17 and 2017-18 as it is stated by the learned counsel for the petitioner that the petitioner is an NRI. The concerned respondent may give appropriate opportunity in terms of the provisions of the Act and the Rules to file reply to the show cause notices whereafter, they may pass a fresh order.

8. Consequently, the orders impugned are quashed and set aside and it is made clear that the authorities while passing fresh order, shall not be influenced by the earlier order passed by them. The penalty orders, which have been passed and assailed in CWP-3705-2023 and CWP-8222-2023, would be also set aside leaving it open for the discretion and consideration by the authorities in light of the provisions of Act and the Rules. The exercise to be done in ***four months***.

9. It is made clear that the petitioner does not press the argument relating to the jurisdiction of respondent No.2 Deputy Commissioner of

Income Tax, Circle-1, International Taxation for initiating proceedings and passing the orders.

10. All pending applications filed in these Appeals shall stand disposed of accordingly.

[SANJEEV PRAKASH SHARMA]
JUDGE

[SANJAY VASHISTH]
JUDGE

November 14, 2024
Ess Kay

Whether speaking / reasoned	:	*Yes*	/	*No*
Whether Reportable	:	*Yes*	/	*No*