

**IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, CHANDIGARH**

**BEFORE MS. DIVA SINGH, JUDICIAL MEMBER
AND MS. ANNAPURNA GUPTA, ACCOUNTANT MEMBER**

ITA Nos. 1265 to 1268/CHD/2016

A.Ys: 2009-10 to 2012-13

Shri Joginder Singh Nijjar,
2-A, Gorway Road Walsall,
West Midland, WSI 3BB,
United Kingdom

Vs. The Asstt. Director of Income Tax
(International Taxation),
Chandigarh.

PAN No. AIHPN7432J

(Appellant)

(Respondent)

Appellant By : Shri Tej Mohan Singh
Respondent By : Mrs. Chanderkanta, Addl. CIT-DR

Date of hearing : 22.05.2017

Date of Pronouncement : 08.06.2017

ORDER

PER MS. DIVA SINGH, JM

In these four appeals of the assessee pertaining to 2009-10 to 2012-13 assessment years, correctness of the consolidated order dated 27.09.2016 of Id. CIT(A)-43 New Delhi is assailed on various grounds, including ground No. 3 which reads as under :

“That no notice under section 153A, 142(1) or 143(2) or under any other section of the Income Tax Act 1961 was ever served on the assessee and as such framing of an assessment without mandatory service of notice is illegal, arbitrary and unjustified.

2. It was a common stand of the parties before the Bench that the arguments advanced in ITA No. 1262/CHD/2016 & others would apply ipsi dixit to the present appeals. It was a submission of the Id. AR that herein also the assessee had opened a Saving Bank account in Punjab National Bank, Amritsar. Thus, the address 10, Old Jail Road, Amritsar has been taken from the said account. It was clarified that the assessee in the present appeal is the brother-in-law of Mrs. Balwinder Kaur Nijjar. Assessee's husband Shri Bhupinder Singh Nijjar is the brother of the assessee and these three people had opened an account with Punjab National Bank at Amritsar, however, none of them have ever resided at that address given and this fact has consistently been brought to the notice of the CIT(A). Assessment order is passed u/s 144 of the Act. The fact of claimed litigation with Shri A.K.Uppal

for deposits and withdrawal of amounts without the knowledge of the assessee are common with Ms. Balwinder Kaur Nijjar's case also and fully apply to the facts of the present case also. The specific ground No. 3 was raised in the present appeal before the CIT(A) in the present proceedings also, same is reproduced hereunder :

"3. That no notice under section 153A, 142(1) or 143(2) or under any other section of the Income Tax Act 1961 was ever served on the assessee and as such framing of an assessment without mandatory service of notice is illegal, arbitrary and unjustified."

3. In the facts of the present case also, notice is stated to have been served through affixture. However, here even the place of affixture has not been mentioned. Considering the facts, submissions and arguments to be common, accepting the prayer of the parties, the impugned order is set aside in toto back to the file of the Id. CIT(A) with a direction to pass a speaking order in accordance with law after giving the assessee a reasonable opportunity of being heard on the jurisdiction issue and then to proceed to decide the issue on merits, if need be. Said order was pronounced in the Open Court at the time of hearing itself.

4. In the result, all the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the Open Court on 8th June, 2017.

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Sd/-
(DIVA SINGH)
JUDICIAL MEMBER

'Poonam'

Copy to:

1. The Appellant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR

Asstt. Registrar
ITAT, Chandigarh.