

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

श्रीमती दिवा सिंह, न्यायिक सदस्य
BEFORE: SMT. DIVA SINGH, JM

आयकर अपील सं./ITA Nos. 886 & 887/CHD/2018

निर्धारण वर्ष / Assessment Year : 2014-15 & 2015-16

M/s Shakti Industries, Jagera Road, Ahmedgarh.	बनाम VS	The ACIT, Circler-IV, Ludhiana.
स्थायी लेखा सं./PAN No: ABAFS2012H		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : None

राजस्व की ओर से/ Revenue by : Smt. Zenia Handa, Sr.DR

सुनवाई की तारीख/Date of Hearing : 20.11.2018

उद्घोषणा की तारीख/Date of Pronouncement : 28.11.2018

आदेश/ORDER

Both these appeals have been filed by the assessee assailing the correctness of the separate orders dated 23.04.2018 and 19.04.2018 respectively of CIT(A)-2, Ludhiana pertaining to 2014-15 and 2015-16 assessment year on identical issues.

2. At the time of hearing, no one was present on behalf of the assessee. The appeal was passed over. Since despite a pass over, assessee remained unrepresented, considering the grounds raised, it was deemed appropriate to proceed with the present appeal ex-parte qua the assessee appellant on merit after hearing ld. Sr.DR Ms. Zenia Handa.

3. The relevant facts pertaining to 2014-15 assessment year are being referred to. A perusal of the record shows that the assessee firm engaged in trading and manufacturing of cattle feed, mustard oil as well as packaging of mustard oil, returned an income of Rs. 21,03,420/-. The assessee was required to explain the deposits in his account. Partly accepting the expenditure, addition of Rs. 11 lakh was made in the hands of the assessee.

4. The issue was carried in appeal before the CIT(A) who granted part relief. The ld. Sr.DR was required to support the order passed by referring to facts on record and addressing the primary issue, whether these were

trade advance by these parties or deposits made for acquiring an asset etc. in the absence of any discussion in the order, assessee was unable to address this aspect, however, reliance was placed upon the order.

5. Similarly, it is seen that in 2015-16 assessment year, the assessee returned an income of Rs. 34,09,440/- from similar activity. The books of account maintained as in the earlier year, in the year under consideration were also produced. The AO in the course of the proceedings herein also, required the assessee to justify the unsecured loans. It is seen that the assessee consistently argued that Section 68 of the Act was not attracted. However, in the facts of the present case also, though various decisions have been referred to by the tax authorities, however, whether these were trade advances or friendly advances etc. made otherwise is not coming out from the record. Accordingly, in view of the absence of relevant discussion in the orders qua the additions sustained by the CIT(A), these are restored back to the file of the AO with the direction to address the facts correctly and completely as only after addressing the issue whether these are trade advances or these are unsecured loans from family, friends and relatives etc. the principles of law applicable for determining the issues would come into play. The decisions applicable would depend upon the facts and discussion on the case law carried out in the absence of relevant discussion on facts is of no help. While so restoring, it is hoped that the assessee participates in the proceedings fully and fairly. The AO is directed to provide the assessee a reasonable opportunity of being heard. Said order was pronounced in the Open Court at the time of hearing itself.

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

Order pronounced in the Open Court on 28.11. 2018.

Sd/-

(दिवा सिंह)

(DIVA SINGH)

न्यायिक सदस्य/Judicial Member

“पूनम”

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 फाइल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar