

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

श्रीमती दिवा सिंह, न्यायकि सदस्य एवं श्रीमती अन्नपूर्णा गुप्ता, लेखा सदस्य  
BEFORE SMT.DIVA SINGH, JUDICIAL MEMBER  
AND SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No.1643/Chd/2017

निर्धारण वर्ष / Assessment Year : 2014-15

M/s Access Agro Seeds Pvt. Ltd., 39, Defence Colony, BRS Nagar, Ludhiana.	बनाम	The ITO, Ward 6(1), Ludhiana.
स्थायी लेखा सं./PAN NO: AAFCA9663B		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

आयकर अपील सं./ ITA No.1644/Chd/2017

निर्धारण वर्ष / Assessment Year : 2014-15

M/s Award Agro Traders Pvt. Ltd.,39, Defence Colony, BRS Nagar, Ludhiana.	बनाम	The ITO, Ward 6(1), Ludhiana.
स्थायी लेखा सं./PAN NO: AAHCA5553A		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

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आयकर अपील सं./ ITA No.1645/Chd/2017

निर्धारण वर्ष / Assessment Year : 2014-15

M/s Auster Agro Traders Pvt. Ltd.,39, Defence Colony, BRS Nagar, Ludhiana.	बनाम	The ITO, Ward 6(1), Ludhiana.
स्थायी लेखा सं./PAN NO: AAHCA5552B		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by: Shri Parikshit Aggarwal, CA

राजस्व की ओर से/ Revenue by : Shri Ashish Gupta, CIT DR

सुनवाई की तारीख/Date of Hearing : 06.02.2019

उदघोषणा की तारीख/Date of Pronouncement: 20.03.2019

**आदेश/ORDER**

**PER BENCH:**

The present appeals have been filed by different  
assesseees against separate orders of the Principal

Commissioner of Income Tax-3, Ludhiana (in short 'Pr. CIT) all dated 29.9.2017 passed u/s 263 of the Income Tax Act, 1961 (hereinafter referred to as 'Act').

2. Earlier the above appeals of the assesseees were dismissed for non prosecution by the Tribunal vide separate orders dated 17.4.2018 and the same were recalled vide consolidated order dated 15.1.2019 passed in MA No.180, 181 & 182/Chd/2018. Hence, the present appeals before us.

It was common ground that the issue involved in all the above appeals were identical .They were therefore heard together and are being disposed off by this consolidated order for the sake of convenience.

3. At the outset itself, the Ld. counsel for assessee invited our attention to the impugned orders of the Ld. Principal Pr. CIT passed u/s 263 of the Act and pointed out that the said orders were all ex-parte orders. The Ld. counsel for assessee submitted that the assessee could not be represented before the Ld. Pr. CIT , because of the reason that the address at which all notices were served, i.e. H.No.39,Defence Colony, B.R.S Nagar, Ludhiana, was locked and the person looking after all financial and litigation matters was behind bars during the period the proceedings were undertaken u/s 263, due to investigation started on him by the Punjab Vigilance Bureau. It was stated that the financial affairs

including income tax matters and litigation of the assessee company was being looked after by Shri Surinder Pal Singh, who was the husband of the director of the assessee company Ms. Mandeep Kaur. That beginning from June, 2017 to till date the premises were locked and Sh Singh was behind bars in this period. A duly sworn affidavit of the director of the assessee company stating the above facts on oath was placed before us. It was also pointed out in the appeal of another company belonging to the group i.e. M/s AKME Crushers & Builders Pvt. Ltd. Vs. ITO in ITA No.1662/Chd/2017, the I.T.A.T., had after considering identical submissions made before it, restored the matter back to the Pr. CIT for decision afresh in accordance with law. Copy of the order was placed before us.

4. The Ld. DR did not object to the above request of the assessee and fairly conceded that in the case of AKME Crushers (supra) the ITAT had restored the issue back to the Ld.Pr.CIT in identical facts and circumstances. He though relied upon the order of the Pr. CIT .

5. Considering the above submissions of the Ld. counsel for assessee that the assessee due to unavoidable circumstances was unable to represent itself in the proceedings before the Ld.Pr. CIT, because the husband of the Director of the company

who was looking after the financial and income tax matters of the assessee company was behind the bars during the said period, we hold, that the interest of justice will be served if the impugned order of the Ld. Pr. CIT is set aside and the matter is restored to the file of the Ld. Pr. CIT for fresh decision in accordance with law. The Ld. counsel for assessee has orally stated before us that notices now be sent at the address of the counsel of the assessee as stated in Form 36, being the form in which appeal is filed to the I.T.A.T. since the husband of the Director is still behind the bars. It was also stated that the assessee is now in a position to be represented before the I.T.A.T. despite the above fact. Accordingly, the Revenue is directed to take note of the above and redecide the issue afresh after giving proper opportunity of hearing to the assessee. We may add that the assessee will cooperate and will not contribute to any unnecessary adjournment in the case.

6. In the result, all the appeals filed by the assesseees are allowed for statistical purposes.

Order pronounced in the Open Court.

Sd/-

दिवा सिंह

(DIVA SINGH)

न्यायकि सदस्य/Judicial Member

दिनांक /Dated: 20<sup>th</sup> ..... March, 2019

\*रती\*

Sd/-

अन्नपूर्णा गुप्ता

ANNAPURNA GUPTA)

लेखा सदस्य/Accountant Member

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

आदेशानुसार/ By order,  
सहायक पंजीकार/ Assistant Registrar