

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

श्री संजय गर्ग, न्यायिक सदस्य
BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER

आयकर अपील सं./ ITA No. 737/CHD/2019

निर्धारण वर्ष / Assessment Year : 2013-14

M/s Profile India, B-2, Sector 58, C.B. Nagar, Noida (U.P) Admn Off: 224, Model Town, Ambala City	Vs. बनाम	The DCIT, Circle, Ambala
स्थायी लेखा सं./PAN NO. AADFP8697B		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Tej Mohan Singh, Advocate

राजस्व की ओर से/ Revenue by : Sh. Manjit Singh, CIT DR

सुनवाई की तारीख/Date of Hearing : 07.11.2019

उद्घोषणा की तारीख/Date of Pronouncement : 07.11.2019

आदेश/Order

The present appeal has been preferred by the assessee against the order dated 29.03.2019 of the Commissioner of Income Tax (Appeals)-4, Ludhiana [hereinafter referred to as 'CIT(A)'].

2. The assessee in this appeal has taken following grounds of appeal:-

1. *That the Ld. Commissioner of Income Tax (Appeals) has erred in law as well as on facts in dismissing the appeal ex-parte without affording a proper opportunity and discussing the additions on merits which is against the*

Principles of Natural Justice and as such the order passed is illegal, arbitrary and unjustified.

2. *Without prejudice to the above, the Ld. Commissioner of Income Tax (Appeals) has erred in law in upholding the rejection of books of accounts which is arbitrary and unjustified.*
3. *That the Ld. Commissioner of Income Tax(Appeals) has further erred in upholding the addition of Rs.28,74,521/- made by applying the GP rate of 13.81% as against 10.51% declared by the assessee which is arbitrary and unjustified.*
4. *That the Ld. Commissioner of Income Tax(Appeals) has further erred in upholding the addition of Rs. 1,20,000/- made by assessing officer applying the provisions of Section 40(a)/(ia) for non deduction of TDS on rent paid which is arbitrary and unjustified.*
5. *That the order of the Ld. Commissioner of Income Tax (Appeals) is erroneous, arbitrary, opposed to law and facts of the case and is, thus, untenable.*

3. At the outset, Ld. Counsel for the assessee has invited our attention to the impugned order of the CIT(A) to submit that the same is ex-parte order passed by the Ld. CIT(A). The Ld. Counsel for the assessee has also submitted that though the counsel for the assessee had sought an adjournment on the last date of hearing but the CIT(A) rejected the adjournment request and passed the impugned order ex-parte of the assessee.

4. The Ld. DR, on the other hand, has drawn our attention to the chart reproduced in the order of the CIT(A) to submit that the Ld. CIT(A) had given number of opportunities to the assessee to appear and present its case, but every time the counsel for the assessee sought adjournment for one reason or the other. The Ld. CIT(A) was then left with no alternative but to pass the impugned order ex-parte of the assessee. However, Ld. Counsel for the assessee has furnished an affidavit of the assessee Shri Vivek Jolly, partner of the assessee firm to submit that though adjournment requests were made to the CIT(A) because the firm of the assessee had been closed down, the required details, information and evidences were not readily available with the assessee as the key person of the firm Shri Sebastian V.M. had left the job. That now the required documents have been obtained and that the assessee may be given atleast one opportunity to properly present its case before the Ld. CIT(A). Though, it has come from the record that the assessee has sought time and again adjournments before the Ld. CIT(A), however, considering the principle of natural justice, one opportunity, in my view, is required to be given to the assessee to present its case before the Ld. CIT(A).

5. In view of this, the impugned order of the CIT(A) is set aside and the matter is restored to the file of the CIT(A) for adjudication afresh. It is made clear that the assessee will promptly appear before the Ld. CIT(A), as and when called, failing which the CIT(A) will be at liberty to pass the order ex-parte of the assessee.

With the above observations, the appeal of the assessee is treated as allowed for statistical purposes.

Order dictated and pronounced in the Open Court immediately on completion of hearing.

Sd/-

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

Dated : 07.11.2019

“आर.के.”

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