

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "बी", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "B", CHANDIGARH

श्री एन.के.सैनी, उपाध्यक्ष एवं श्री संजय गर्ग, न्यायिक सदस्य
BEFORE: SHRI. N.K.SAINI, VP & SHRI , SANJAY GARG, JM

आयकर अपील सं./ ITA NO.1035/Chd/2019
निर्धारण वर्ष / Assessment Year : 2015-16

Vishal Paper Tech (India) Ltd. Vill: Mubarkpur, Dera Bassi Punjab	बनाम	The ACIT, C-2(1) Sector-17 Chandigarh
स्थायी लेखा सं./PAN NO: AAACV5110H		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारित की ओर से/Assessee by : None
राजस्व की ओर से/ Revenue by : Shri Aakarshan Singh, Addl. CIT
सुनवाई की तारीख/Date of Hearing : 23/01/2020
उद्घोषणा की तारीख/Date of Pronouncement : 23/01/2020

आदेश/Order

PER N.K. SAINI, VICE PRESIDENT

This is an appeal by the Assessee against the order dt. 18/04/2019 of Ld. CIT(A)-1, Chandigarh.

2. At the time of hearing nobody was present on behalf of the assessee, therefore, the appeal is decided ex-parte after hearing the Ld. DR.

3. Following grounds have been raised in this appeal:

1. That the Ld. CIT(Appeals) has erred in law for rejecting our claim for additional depreciation amounting to Rs. 8707199/- while the assessee fulfills all the conditions prescribed under section 32(1)(iia) of the Act.

2. That the Ld. CIT(Appeals) has erred in law in not allowing the MAT credit under section 115JAA of Income Tax Act 1961 when there is credit of Rs. 16574724/- lying in the account.

3. The assessee craves permission to file additional evidence, add, amend or delete any ground of appeal before the finalization of appellate proceedings.

4. Facts of the case in brief are that the assessee filed its return of income on 30/09/2015 declaring an income of Rs. 1,27,05,760/-. Later on the case was selected for scrutiny. The A.O. framed the assessment at an income of Rs. 2,14,12,959/- by making the addition of Rs. 87,07,199/- which was made by denying the additional depreciation claimed by the assessee.

5. Being aggrieved the assessee carried the matter to the Ld. CIT(A) who dismissed the appeal by passing the ex-parte order. Ld. CIT(A) mentioned that various notices were issued to the assessee as per following details:

<i>Date of issue of notice</i>	<i>Date of hearing</i>	<i>Remarks</i>
28/12/2018	15/01/2019	Ld. AR appeared, sought adjournment. Case was adjourned to 18/02/2019
	18/02/2019	Ld. AR appeared, again sought adjournment. Case was adjourned to 15/03/2019
	15/03/2019	Ld. AR appeared, asked for more time. Again, case was adjourned to 18/04/2019.
	18/04/2019	No attendance. Nor any written submission or letter for adjournment was filed till the disposal of this appeal.

He decided the appeal ex-parte since nobody appeared on 18/04/2019.

6. Now the assessee is in appeal.

7. Ld. DR supported the impugned order passed by the Ld. CIT(A) and submitted that the assessee did not appear on the date given for the hearing, by the Ld. CIT(A) therefore there was no alternative except to decide the appeal ex-parte.

8. We have considered the submissions of the Ld. DR and perused the material available on the record. In the present case, the Ld. CIT(A) mentioned that no written submission was furnished and the assessee also did not appear on 18/04/2019, he also mentioned that the case was earlier fixed on 15/03/2019 and adjourned to 18/04/2019 however it is not clear as to whether the said date was communicated to the assessee. It is well settled that nobody should be condemned, unheard as per the maxim, "audi alteram partem". We therefore by keeping in view the principles of natural justice, deem it appropriate to set aside this case back to the file of the Ld. CIT(A) to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of being heard to the assessee.

9. In the result, appeal of the Assessee is allowed for statistical purposes.

(Order pronounced in the open Court on 23/01/2020)

Sd/-
संजय गर्ग
(SANJAY GARG)
न्यायिक सदस्य/ Judicial Member
AG
Date: 23/01/2020

Sd/-
एन.के.सैनी,
(N.K. SAINI)
उपाध्यक्ष / VICE PRESIDENT

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