

**आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, "ए" चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, "A", CHANDIGARH**

**श्री संजय गर्ग, न्यायिकसदस्य एवं श्रीमती अन्नपूर्णा गुप्ता, लेखा सदस्य
BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND
Ms. ANNAPURNA GUPTA, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No. 891/CHD/2019

निर्धारण वर्ष / Assessment Year : 2012-13

Haryana State Warehousing Corporation, Bay No. 15-18, Sector 2, Panchkula- 134112	बनाम	The ACIT, Circle Panchkula, Panchkula 134112
स्थायी लेखा सं./PAN NO: AAATH7482H		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

Hearing through video Conferencing

निर्धारिती की ओर से/Assessee by : Shri B.K. Nohria, CA

राजस्व की ओर से/ Revenue by : Shri Arvind Sudarshan, JCIT

सुनवाई की तारीख/Date of Hearing : 16.09.2020

उद्घोषणा की तारीख/Date of Pronouncement : 16.09.2020

आदेश/Order

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order 22.03.2019 of the Commissioner of Income Tax (Appeals)-4, Ludhiana [hereinafter referred to as 'CIT(A)'].

2. At the outset, Ld. Counsel for the assessee has invited our attention to the impugned order of the CIT(A) to submit that the assessee during the course of hearing before the CIT(A) had taken certain additional / legal grounds which for the sake of ready reference are reproduced as under:-

“Ground No. 7.1

That the notice dated 22.12.2016 issued under section 148 of the Income Tax Act, 1961 by the Ld. Assessing Officer is without any permission under section 152(2) of the Act based on the reasons recorded on 22.12.2016 is declared as null and void and quashed.

Ground No. 7.2

That the Ld. Assessing Officer has wrongly initiated the proceedings u/s 148 of the Act on the basis of audit objection lying in the assessment file and ignoring the judgment of Hon'ble Supreme Court for raising preliminary objection.

Ground No. 7.3

That the Ld. Assessing Officer has wrongly reduced the depreciation on block of asset of Building by bifurcating the operating written value of that block of assets which is wrong as per Section 32(1) explanation 2 read with Section 43(6)(c)(ii) of the Income Tax Act, 1961 by Rs. 21,75,763/-.

7.3.1 Madam the Ld. Assessing Officer in order to settle the RAP objection has wrongly reduced the rate of charging of the depreciation on that block of asset from 10% to 5%.”

3. However, the Ld. CIT(A) did not admit the additional / legal grounds for adjudication on the ground that the same was not signed by the assessee but his counsel only. The Ld. CIT(A) observed that the counsel was not authorized to verify the appeal. He, therefore, did not admit these grounds for adjudication. The Ld. Counsel for the assessee has submitted that the grounds taken by the assessee were legal grounds and which could have been rightly taken by the counsel for assessee during the hearing before the Ld. CIT(A), upon which the Ld. CIT(A) was supposed to adjudicate. The Ld. Counsel for the assessee has further submitted that appellant can resubmit these grounds duly signed by his client / assessee also. He has submitted that the matter may be restored to

the file of the CIT(A) to adjudicate upon the aforesaid additional / legal grounds taken by the assessee.

4. The Ld. DR has not objected to the restoration of the matter to the Ld. CIT(A) for adjudication upon the additional / legal grounds taken by the assessee.

5. In view of the above submissions of both the Ld. representatives of the parties, the matter is restored to the file of the CIT(A) for the propose of adjudication of the additional / legal grounds taken by the assessee as reproduced above. Needless to say that the CIT(A) will give proper opportunity to the assessee to present its case and then to decide the issue in accordance with law.

In the result, the appeal of the assessee stands allowed.

Order pronounced on 16.09.2020.

Sd/-

(अन्नपूर्णा गुप्ता / ANNAPURNA GUPTA)

लेखा सदस्य/ Accountant Member

Sd/-

(संजय गर्ग / SANJAY GARG)

न्यायिक सदस्य/ Judicial Member

Dated : 16.09.2020

“आर.के.”

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. आयकरआयुक्त (अपील)/ The CIT(A)
5. विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्डफाईल/ Guard File

आदेशानुसार/ By order,

सहायकपंजीकार/ Assistant Registrar