

IN THE INCOME TAX APPELLATE TRIBUNAL**DEHRADUN CIRCUIT BENCH: DEHRADUN****BEFORE SHRI R. K. PANDA, ACCOUNTANT MEMBER
AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER****ITA No. 5562/DEL/2018 (A.Y 2015-16)****(THROUGH VIDEO CONFERENCING)**

Nand Nagar Industrial Estate Ramnagar Road, Kashipur, Udham Singh Nagar, Uttarakhand PAN: AAAAN4391A (APPELLANT)	Vs	ITO Ward-2(2) Kashipur Uttarakhand (RESPONDENT)
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Appellant by	None
Respondent by	Sh. A. S. Rana, Sr. DR

Date of Hearing	18.12.2020
Date of Pronouncement	31.12.2020

ORDER**PER SUCHITRA KAMBLE, JM**

This appeal is filed by the assessee against the order dated 31/5/2018 passed by CIT(A)- Haldwani, for Assessment Year 2015-16.

2. The grounds of appeal are as under:-

The appellant seeks to take the following grounds in appeal, which are without prejudice to one another:

1. *On the facts and in the circumstances of the case and in law, the Ld.CIT(A) erred in confirming the action of the Assessing Officer disallowing the claim u/s 80IA of the Income Tax Act, 1961 and making an addition of Rs.4,75,300/-. The order being arbitrary, erroneous and unlawful must be quashed with directions for appropriate relief."*

3. The assessee an AOP was incorporate on 10/7/2005. For the present Assessment Year, there are following four members of AOP.

S. No.	Name	% of Shares	PAN
1	Mr. Vijay Kumar Jindal	33.33%	ACKPJ9693A
2	Mr. Vikas Jindal	33.33%	ACKPJ9692B
3	Mr. Anshul Jindal	13.34%	ADNPJ3899G
4	Mr. Vinay Kumar Jindal	20.00	AFCPK6402K

As per audit report in Form 3CD, the nature of the business of the assessee is dealing in development, sale and maintenance of private industrial area situated at village Mahua Kheraganj, Kashipur. The assessee claimed deduction u/s 80IA(4)(iii) amounting to Rs. 82,019/- in the present Assessment Year. Requisite Audit report in Form No. 10CCB was furnished. The initial Assessment Year for claim of such deduction was Assessment Year 2007-08. Total of the balance sheet of the assessee as on 31/3/2015 was Rs. 3,43,39,168.41/-. The return of income electronically declaring 'NIL' income was filed on 26/9/2015. The Assessing Officer made addition of Rs. 4,75,300/- by disallowing the deduction u/s 80IA (iv) (iii) of the Act.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT (A) dismissed the appeal of the assessee.

5. At the time of hearing none appeared on behalf of the assessee despite giving requisite notices. Therefore, we are proceeding the present appeal filed by the assessee on the basis of assessment order and the order of the CIT(A).

6. The Ld. DR relied upon the assessment order and the order of the CIT(A).

7. We have heard Ld. DR and perused the material available on record. From the perusal of the order of the CIT(A), it can be seen that at the time of hearing

before the CIT(A) none appeared on behalf of the assessee, however, written submissions was filed by the assessee. We find that the CIT(A) has not given the details as to how many times notice was issued to the Assessee and whether the notice of the hearing was properly served to the assessee regarding the proceedings. Considering the totality of the facts of the case and interest of justice, we deem it proper to restore the issue to the file of the CIT(A) with the direction to grant one final opportunity to the assessee to represent his case and decide the issue as per fact and law. The assessee is also hereby directed to appear before the CIT(A) and present its case failing which the CIT(A) is at liberty to decide the issue as per law. The appeal of the assessee is partly allowed for statistical purpose.

8. In result, the appeal of the assessee is partly allowed for statistical purpose.

Order pronounced in the Open Court on this 31st Day of DECEMBER, 2020.

**Sd/-
(R. K. PANDA)
ACCOUNTANT MEMBER**

**Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Dated : 31/12/2020
R. Naheed

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	28.12.2020
Date on which the typed draft is placed before the dictating Member	28.12.2020
Date on which the typed draft is placed before the Other Member	31.12.2020
Date on which the approved draft comes to the Sr. PS/PS	31.12.2020
Date on which the fair order is placed before the Dictating Member for pronouncement	31.12.2020
Date on which the fair order comes back to the Sr. PS/PS	31.12.2020
Date on which the final order is uploaded on the website of ITAT	31.12.2020
Date on which the file goes to the Bench Clerk	31.12.2020
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	