

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

**श्रीमती दिवा सिंह, न्यायिक सदस्य
BEFORE: SMT. DIVA SINGH, JM**

आयकर अपील सं./ITA No. 73/CHD/2020
निर्धारण वर्ष / Assessment Year : 2018-19

Smt. Ashmi Gupta, 12, Sukhmani Enclave, Near South City, Canal Road, Rajguru Nagar, Ludhiana.	बनाम VS	The DCIT, Centralized Processing Centre, Bengaluru..
स्थायी लेखा सं./PAN No: AAVPG4023G		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Ms. Vidisha Vinay, C.A.

राजस्व की ओर से/ Revenue by : Smt. Kusum Bansal, Addl. CIT

सुनवाई की तारीख/Date of Hearing : 18.03.2021

उद्घोषणा की तारीख/Date of Pronouncement : 24.03.2021

Hearing conducted via Webex

आदेश/ORDER

The present appeal has been filed by the assessee against the order dated 08.11.2019 of CIT(A)-3 Ludhiana pertaining to 2018-19 assessment year on the following grounds:

1. That order passed u/s 250(6) of the Income Tax Act, 1961 by the Ld. Commissioner of Income Tax (Appeals)-3, Ludhiana is against law and facts on the file in as much as she was not justified to arbitrarily uphold the action of the Ld. Deputy Commissioner of Income Tax, Centralized Processing Center, Bengaluru in making disallowances of Rs.395665/- against payment of ESI and PF which is otherwise paid before filing of return.

2. That the Ld. Commissioner of Income Tax (Appeals)-3, has wrongly disallowed Rs.11575/- on account of Labour Welfare Fund which is already added back in the computation of income.

3. That the appellant prays for leave to add, alter, amend and/or vary the grounds of appeal at or before the time of hearing of the appeal.

4. That the appellant craves leave and sanction to file additional evidence, if so, required for proper prosecution of the case, based on facts and circumstances, which has not been or could not be adduced or filed before the lower authorities either because proper and sufficient opportunity/time was not provided or because it was not solicited or its need was not provided or because it was not solicited or its need was not provided or because its need was appreciated.

2. At the time of hearing Ms. Vidisha Vinay appearing on behalf of the assessee submitted that relief on the grounds raised was maintainable in law.

3. Considering the fact that the order passed by the Appellate Authority Id. AR was an ex-parte order the Id. AR was required to address the reasons for staying non-represented before the said Authority and not availing of the Appellate Forum provided under the Statute.

4. Addressing the query Id. AR submitted that the assessee never received any notices for the stated dates of hearing.

5. The Id. Sr.DR stated that on non-receipt of notices she would not be able to state and would rely upon the order, however, she had no objection if the matter is sent back for a decision on merit after hearing the assessee.

6. I have heard the submissions and perused the material on record. It is seen that through the return filed on 07.10.2018 the assessee declared income of Rs. 22,94,785/-. By an order

processed u/s 143(1) by the CPC, additions by way of disallowance of Rs. 3,95,665/- on account of late payment of ESI and EPF and Labour Welfare Expenses of Rs. 11,575/- were made.

7. The assessee filed an appeal before the First Appellate Authority. Notices as noted in para 5 were sent through Registered Post, however, the assessee remained unrepresented. Considering which the First Appellate Authority passed the following order:

“5.9 I have carefully considered the fact that the case of the appellant had been fixed on the given address as per form 35 , however the assessee has not complied with any of the notices of fixation at the time of appellate proceedings. The appellant has also not filed any documentary evidence, in support of her contention at the time of filing of appeal and during the appellate proceedings. As apparent from the record the assessee has not complied with any of the notices and has not filed any adjournment application also appellate proceedings. Accordingly it is treated that the assessee has nothing to say in support of her contention. Therefore the appeal is dismissed ex parte for the want of prosecution.”

8. In the above backdrop considering ground No. 4 raised in the present appeal and the submissions advanced by the parties, it was deemed appropriate to set aside the impugned order back to the file of the CIT(A) with the direction to pass a speaking order in accordance with law after giving the assessee a reasonable opportunity of being heard. It is directed that fresh/supporting evidences etc. which the assessee may need to file shall be admitted. The assessee in its own interests is directed to ensure full and proper participation before the said authority. Said

order was pronounced at the time of virtual hearing itself in the presence of the parties via Webex.

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

Order pronounced on 24th March,2021.

Sd/-

(दिवा सिंह)

(DIVA SINGH)

न्यायिक सदस्य/Judicial Member

“पूनम”

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 फाइल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar