

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

श्रीमती दिवा सिंह, न्यायिक सदस्य एवं, एवं श्रीमती अन्नपूर्णा गुप्ता, लेखा सदस्य
BEFORE: SMT. DIVA SINGH, JM & SMT. ANNAPURNA GUPTA, AM

आयकर अपील सं./ ITA No. 522/CHD/2019

निर्धारण वर्ष / Assessment Year : 2010-11

Maverick Builders Pvt. Ltd., India International Habitat Centre, NH-1, Village Quadian, Jalandhar Bypass, Ludhiana.	बनाम VS	The ITO, Ward 7(4), Ludhiana.
स्थायी लेखा सं./PAN /TAN No: AAFCM1968F		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Rajeshwar Prashad Painuly, CA
राजस्व की ओर से/ Revenue by : Shri Sarabjit Singh, CIT

तारीख/Date of Hearing : 16.11.2021
उद्घोषणा की तारीख/Date of Pronouncement : 04.01.2022

VIRTUAL HEARING

आदेश/ORDER

PER DIVA SINGH

The present appeal is filed by the assessee against the order dated 13.11.2018 of CIT(A)-3, Ludhiana pertaining to 2010-11 assessment year. Although various grounds have been raised assailing the merits of the additions sustained, however, the parties were heard on ground No. 1. This ground is reproduced hereunder for the sake of completeness :

“The Hon'ble CIT (A) has not followed the law of natural justice while confirming additions by the ld. AO.”

2. However, before proceeding to address the arguments of the parties on the aforesaid ground, it is relevant to first address the delay of 56 days pointed out by the Registry in the filing of the present appeal.

3. The ld. AR relying upon the application dated 27.10.2020 supported by an affidavit moved by Mr. Brij Bhushan Sharma, Director of the company submitted that the delay has occurred as all mails of the notices as well as communication of the order etc. were directly sent to the Mail Id of the assessee's counsel. The said counsel, it was submitted, for some reasons kept the assessee unrepresented before the CIT(A) also and did not keep the assessee also informed. Ultimately on following up and knowing the lapses, the assessee changed their counsel to Mr. Rajeshwar Prashad Painuly, the arguing counsel. Hence, it was his submission that the delay has occurred on account of reasons beyond the control of the assessee. In these circumstances, it was his prayer that the delay may be condoned and allowing Ground No. 1 on these very facts the issues may be remanded back. Referring to the dates mentioned in para 4 on which the hearings were stated to be fixed, it was submitted that not disputing

these facts since the assessee remained unrepresented for no fault of his own, the prayer may be allowed.

4. The ld. Sr.DR on considering the record did not oppose the prayer for condonation of delay nor the prayer for remand back to the file of the CIT(A).

5. We have heard the rival submissions and perused the material available on record. In the facts of the present case, it is seen that before the AO, the assessee was represented by Shri Noginder Lal, ITP. Addition of Rs. 56 lacs was made by the AO for the reasons set out in the order which we refrain from addressing presently. The addition was challenged in appeal before the CIT(A). On each of the dates, the appeal came up for hearing before the First Appellate Authority, it is seen that the assessee remained unrepresented. In the circumstances, the submissions as advanced on behalf of the assessee by way of the application on record and the affidavit relied upon by the ld. AR, we deem it appropriate and in the interests of justice to condone the delay as having been caused by reasons beyond the control of the assessee. For similar reasons allowing ground No. 1, the impugned order is set aside and the issues are restored back to the file of the CIT(A). The ld. AR was directed to ensure that the trust

reposed in the assessee is not abused and the assessee participates before the First Appellate Authority fully and fairly to ensure proper adjudication of the issues. It was made clear that in the eventuality of abuse of the opportunity so provided in good faith, the ld. CIT(A) would be at liberty to pass an order on the basis of material available on record. Said order was pronounced in the presence of the parties via Webex.

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

Order pronounced on 04 January,2022.

Sd/-

(अन्नपूर्णा गुप्ता)

(ANNAPURNA GUPTA)

लेखा सदस्य/ Accountant Member

“Poonam”

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

Sd/-

(दिवा सिंह)

(DIVA SINGH)

न्यायिक सदस्य/ Judicial Member

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar