

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH
(VIRTUAL COURT)

श्री एन.के.सैनी, उपाध्यक्ष एवं श्री सुधांशु श्रीवास्तव, न्यायिक सदस्य
BEFORE: SHRI. N.K.SAINI, VP & SHRI. SUDHANSHU SRIVASTAVA, JM

आयकर अपील सं./ ITA NO. 347/Chd/2021

निर्धारण वर्ष / Assessment Year : 2018-19

ACME FORMULATION PRIVATE LIMITED 75 75, Industrial Area, Phase-1-160002, Chandigarh (UT)	बनाम	The DCIT Circle 2(1), Chandigarh
स्थायी लेखा सं./PAN NO: AAECA7994C		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारित की ओर से/Assessee by : Shri Ajay Jain, CA
राजस्व की ओर से/ Revenue by : Smt. Priyanka Dhar, Sr. DR

सुनवाई की तारीख/Date of Hearing : 05/01/2022
उद्घोषणा की तारीख/Date of Pronouncement : 05/01/2022

आदेश/Order

PER N.K. SAINI, VICE PRESIDENT

This is an appeal by the assessee against the order dt. 11/09/2021 of the Ld. CIT(A), National Faceless Appeal Centre (NFAC), Delhi.

2. Following grounds have been raised in this appeal:

1. That the Ld. Commissioner of Income Tax- (Appeals) has wrongly dismissed the appeal simply on ground that the assessment has framed under section 143(3) after passing of order under section 143(1)/154 of Income Tax Act without appreciating the fact that AO while framing the assessment under section 143(3) has taken the same income of Rs 83181670 which was determined under section 143(1) of Income Tax Act.

2. That the Ld. Commissioner of Income Tax- (Appeals) has erred by not reducing the Share in profit of LLP Rs 17242407 which is exempted under section 10 of Income Tax Act.

3. *That the Ld. Commissioner of Income Tax- (Appeals) has erred by not reducing the Divident Income Rs47006 which is exempted under section 10 of Income Tax Act.*

4. *That the Ld. Commissioner of Income Tax- (Appeals) has erred by not reducing the EPF and ESI of Rs 1305644 on account of delay in deposit of employee share of ESI and EPF without considering the fact that the assessee had deposited before due date of filing of itr and he also ignored the jurisdictional Punjab and Haryana High court decision in favour of appellant.*

5. *That the Assessee craves for permission to add, amend, alter or withdraw any grounds of appeal with approval of the hon'ble bench.*

3. During the course of hearing the Ld. Counsel for the Assessee submitted that the assessee filed the appeal before the Ld. CIT(A) against the order passed under section 154 of the Income Tax Act, 1961 (hereinafter referred to as 'Act') dt. 27/08/2020, however no findings has been given by the Ld. CIT(A) on the said grievance of the assessee. It was further stated that the A.O. while passing the assessment order under section 143(3) of the Act had taken in to consideration the income which was computed under section 143(1) of the Act against which the assessee filed the application under section 154 of the Act. It was also stated that the assessee deposited the amount of employees contribution of ESI and PF before furnishing the return of income under section 139(1) of the Act that is why the application under section 154 of the Act was filed for rectification of the mistake apparent from the record. However the Ld. CIT(A) has not considered the said fact and even no findings has been given on the said issue.

4. In her rival submissions the Ld. Sr. DR strongly supported the impugned order passed by the Ld. CIT(A).

5. After considering the submissions of both the parties and the material available on the record, it appears that the Ld. CIT(A) had not adjudicated the issue raised by

the assessee i.e; the appeal against the order passed under section 154 of the Act by stating that the proceedings under the said section i.e; 154 of the Act stood subsumed and overridden by the proceedings under section 143(3) of the Act and considered the appeal of the assessee as infructuous. We therefore deem it appropriate to set aside this issue back to the file of the Ld. CIT(A) to be adjudicated afresh in accordance with law by giving the reasonable opportunity of being heard to the assessee.

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

(Order pronounced in the open Court on 05/01/2022)

Sd/-

Sd/-

सुधांशु श्रीवास्तव
(SUDHANSHU SRIVASTAVA)
न्यायिक सदस्य/ JUDICIAL MEMBER
AG
Date: 05/01/2022

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

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar