

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

BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND
SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.58 to 64/CHD/2022

निर्धारण वर्ष / Assessment Year : 2012-13 to 2018-19

Shri Balram Krishan Aggarwal, Plot no. 47-48, Industrial Area Phase-II, Chandigarh.	Vs	The ACIT, Central Circle-1, Chandigarh.
स्थायीलेखासं./PAN NO: ABCPK9427G		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारितकीओरसे/Assessee by: Shri Parikshit Aggarwal, CA

राजस्वकीओरसे/ Revenue by : Smt. Priyanka Dhar, Sr.DR

सुनवाईकीतारीख/Date of Hearing : 07.04.2022

उदघोषणाकीतारीख/Date of Pronouncement : 19.04.2022

आदेश/Order

Per Sanjay Garg, Judicial Member:

The present appeals have been preferred by the same assessee against the common order of the Ld. Commissioner of Income Tax (Appeals)-3 Gurgaon [hereinafter referred to as 'the CIT(A)] dated 28.12.2021 pertaining to 2012-13 to 2018-19 assessment years.

2. Since common issues are involved in all the appeals, hence, they were heard together and are being decided by a common order for the sake of convenience.

3. ITA No. 58/CHD/2021 is being taken as the lead case for adjudication. The assessee in this appeal has taken the following grounds of appeal :

1. That on the facts, circumstances and legal position of the case, the Worthy CIT(A)-3, Gurgaon in Appeal No. 10190/CIT(A)-3./GGN/2020-21 has erred in passing the order in contravention of the provisions of S. 250(6) of the Income Tax Act, 1961.

2. That on law, facts and circumstances of the case, the Worthy CIT(A) has erred in not quashing the impugned order passed u/s 154 by the Ld. AO ever when the said order was passed without approval u/s 153D.

3. That on law, facts and circumstances of the case, the Worthy CIT(A) has erred v confirming the action of Ld. AO of carrying out rectification u/s 154 to impost interest u/s 234A & 234C and enhance interest, u/s- 2348 even when the issue involved was highly debatable and was hence, outside the scope of s. 154.

4. That On saw, facts and circumstances of the case, the Worthy CIT(A) has erred in confirming the action of Ld. AO of rectifying 'the demand notice u/s 356 even when the Ld AO doesn't have the' powers to amend the calculations carried out in demand notice u/s 156 as held in CIT vs Suresh Gokuldas (229 ITR 721) (Madras H.C)

5. That on law, facts and circumstances of the case the Worthy C(T)A has erred in confirming the action of Ld. AO of carrying oat rectification uy's-154 to impose interest u/s 234A even when such interest was not chargeable.

4. The main grievance of the assessee in this appeal is regarding the action of the AO in revising/rectifying/enhancing the interest levied u/s 234A, 234B and 234C of the Income Tax Act, 1961 by way of a rectification order passed u/s 154 of the Income Tax Act.

5. The assessee in appeal has raised the issue that the AO did not take revised permission u/s 153D of the Act while revising the order u/s 154 of the Act. Further that the AO did not have jurisdiction u/s 154 of the Act to revise the order relating to revision/enhancement of interest u/s 234A, 234B and 234C of the Act. Further the order has been assailed on the ground that

the assessee was prevented from sufficient cause for filing return beyond the stipulated time and one month granted by the AO. That the AO had failed to provide the seized material in time to the assessee. Therefore, the levy of interest was not justified u/s 154 of the Act.

6. At the outset, the ld. counsel for the assessee has submitted that the assessee has also contested the levy/revision/enhancement of interest in quantum appeals against the orders of the AO u/s 153A of the Income Tax Act which appeals are pending for adjudication before the ld. CIT(A), the detail of the same is as under :

ITA Nos. before CIT(A) (143(3) r.w.s. 153A)
1. CIT (A), Gurgaon-3/10618/2019-20
2. CIT (A), Gurgaon-3/10623/2019-20
3. CIT (A), Gurgaon-3/10629/2019-20
4. CIT (A), Gurgaon-3/10631/2019-20
5. CIT (A), Gurgaon-3/10638/2019-20
6. CIT (A), Gurgaon-3/10639/2019-20
7. CIT (A), Gurgaon-3/10645/2019-20

7. The ld. counsel has submitted that since the issue involved in the present appeals, which are appeals relating to the order passed u/s 154 of the Act consequent to the main order passed u/s 153A of the Act, are inter-linked with the issues raised in the appeals against the main orders passed u/s 153A of the Act, therefore, these appeals may be restored to the file of the CIT(A) to be adjudicated alongwith the main appeals against the orders u/s 153A of the Act. The ld. counsel for the assessee has also

submitted that all grounds relating to the validity of the order passed u/s 154 of the Act as raised in these appeals, may be kept open to be agitated before the CIT(A).

8. The Id. DR has not objected to the same.

9. In view of this, all the captioned appeals are restored back to the file of the CIT(A) with the direction that the same may be decided alongwith the main appeals of the assessee against the main order passed u/s 153A of the Act. The assessee will be at liberty to raise all the grounds available to him in respect of these appeals which the Id. CIT(A) will adjudicate in accordance with law by way of a speaking order.

10. In the result, all the above captioned appeals of the assessee are accordingly, allowed for statistical purposes.

Order pronounced in the Open Court on 19th April, 2022.

Sd/-

Sd/-

(VIKRAM SINGH YADAV)

लेखा सदस्य/ Accountant Member

(SANJAY GARG)

न्यायिक सदस्य/ Judicial Member

“Poonam.”

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