

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

BEFORE: SMT. DIVA SINGH, JUDICIAL MEMBER &
SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA Nos. 198, 199 & 200/CHD/2020
A.Y. : 2008-09, 2009-10 & 2010-11

M/s Avtar Exports Pvt.Ltd., Kanganawal Road, VPO-Jugiana, Ludhiana.	बनाम VS	The ITO, Ward 3(2), Ludhiana.
स्थायी लेखा सं./PAN /TAN No: AABCA4125G		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : None

राजस्व की ओर से/ Revenue by : Smt. Amandpreet Kaur, Sr.DR

तारीख/Date of Hearing : 03.08.2022

उद्घोषणा की तारीख/Date of Pronouncement : 05.09.2022

आदेश/ORDER

PER BENCH

These three appeals filed by the assessee pertaining to 2008-09, 2009-10 and 2010-11 assessment years are taken up together for the sake of convenience.

2. In **ITA 198/CHD/2020** pertaining to 2008-09, the assessee has challenged the order dated 06.07.2018 of the CIT(A), Ludhiana wherein vide his, the penalty imposed by the AO u/s 271(1)(c) of the Act has been confirmed.

2.1 In **ITA 199/CHD/2020** pertaining to 2009-10 assessment year, the order dated 06.07.2018 of the CIT(A), Ludhiana

similarly is challenged as herein also the penalty imposed u/s 271(1)(c) of the Act by the AO has been confirmed in appeal by the ld. CIT(A).

2.2 In **ITA 200/CHD/2020**, the appeal has been filed by the assessee assailing the correctness of the order dated 24.09.2018 of CIT(A), Ludhiana wherein the additions made by the AO have been confirmed.

3. All these appeals listed on the Cause List were taken up for hearing together. However, at the time of hearing, no one was present on behalf of the assessee. The appeals were passed over thrice so as to ensure that the assessee is enabled to participate.

3.1 However, despite the pass overs given the assessee remained unrepresented in the fourth round also.

3.2 The record further shows that on the last date of hearing also when these appeals came up for hearing i.e. on 14.06.2022, the assessee remained unrepresented. On the said date two pass-overs had been given. Despite this, neither the assessee appeared nor anyone on assessee's behalf. The record shows that in those circumstances, considering the record, the hearing in these appeals was finally adjourned to 03.08.2022. It was also noticed that whenever the appeal came up for hearing, the assessee has been seeking time repeatedly.

3.3 The record further shows that on 14.06.2022, for the present date, notice was issued to the assessee as is evident from the ordersheet. It need be noted that the ordersheets of the ITAT are being routinely uploaded everyday by the Registry. In the circumstances, the record shows that the assessee has adequate notice for the specific date of hearing.

4. The record further shows that **ITA 198 & 199/CHD/2020** are delayed by 535 days and **ITA 200/CHD/2020** is delayed by 449 days.

4.1 Notice to this effect has also been given to the assessee. We have seen that a condonation of delay application has been placed on behalf of the assessee dated 17.02.2020 wherein the entire blame has been placed on some Accountant. We have seen that no affidavit of the said employee has been filed. On the other hand, it is seen that the affidavit of the Director Shri Davinder Garg filed is not in the proper format as the said affidavit neither mentions the date nor the place of affirming the averments and it is not even notarized. Accordingly, considering the background of the case on facts as available on record, it is presumed that the assessee may not be serious in pursuing the appeals filed. No effort has been made to support the condonation of delay application.

5. The ld. DR relies on the orders and considering the record prays for dismissal of the appeals.

6. We have heard the Revenue.

7. It is further seen on merits that the impugned order has been passed by the CIT(A) in ITA 198/CHD/2020 wherein the share capital alongwith premium which was subject matter of addition u/s 68 amounting to Rs.75 lacs was not addressed by the assessee before the tax authorities with relevant evidences.

7.1 A perusal of para 3 of the said order shows that the case of the assessee has been considered akin to*aforesaid racket of providing accommodation entries through bogus and paper/shell companies. A shell entity is generally an entity without any significant trading.....*”.

7.2 A perusal of para 4 shows that the assessee was found to be.....”*completely unable to prove the genuineness of the transactions of its share subscription even though it complied with the formalities of submitting the make-believe paper documents.....*”

7.3 A perusal of page 5 shows that information sought u/s 133(6) was not filed. Considering these facts, the addition stood made and in the penalty proceedings, the arguments of the assessee by the CIT(A) were found to be not sustainable. As a result thereof, the penalty of Rs.23,16,117/- was imposed, which has been confirmed in appeal as the assessee failed to offer any meaningful submissions. Even before us, we find no argument or

evidence canvassed to persuade that the order passed is an incorrect order on facts and law.

8. Similarly, in **ITA-199/CHD/2020** on the same set of facts, considering the transactions to be not genuine, the addition made by the AO of Rs.70 lacs u/s 68 of the Act was a subject matter of consideration in the penalty proceedings wherein the explanation of the assessee was rejected. Nothing has been placed by the assessee before us to canvass a contrary view.

9. In **ITA 200/CHD/2020** it is seen that the challenge is posed to the addition sustained by the CIT(A) of Rs. 67 lacs made by the AO. The addition was sustained in appeal considering the facts and evidences and pleadings of the assessee. Nothing further has been placed before us to show that the view of the ld. CIT(A) was incorrect on facts and law.

10. In the peculiar facts, wherein despite repeated opportunity, the assessee has failed to put in an appearance and has neither addressed the inordinate delay which we notice is not during the Covid times as the appeals have been filed on 25.02.2020. Thus, considering the facts and material on record, we find that we have no alternative but to dismiss the appeals on the grounds of limitation itself.

11. While so directing, opportunity is given to the assessee to pray for a recall of this order in entirety if the assessee is in a

position to address the reasons for non-representation and undertakes to file a proper affidavit explaining the inordinate delay. Said order was pronounced in the Open Court at the time of hearing itself.

12. In the result, the appeals of the assessee are dismissed.

Order pronounced on 5th September,2022.

Sd/-

(VIKRAM SINGH YADAV)

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/-

(DIVA SINGH)

न्यायिक सदस्य/ Judicial Member

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar