

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

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

आयकर अपील सं./ ITA No. 581/CHD/2022
Assessment Year : 2014-15

Shri Varinder Kumar, S/o Shri Janak Raj, Proprietor M/s Indian Steels, Aggarwal Market, Ludhiana.	बनाम VS	The ITO, Ward IV(2), Ludhiana.
स्थायी लेखा सं./PAN /TAN No: AAYPK0475H		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : None (written submissions)
राजस्व की ओर से/ Revenue by : Shri Akashdeep, JCIT, Sr. DR

तारीख/Date of Hearing : 30.11.2022
उद्घोषणा की तारीख/Date of Pronouncement : 15.12.2022

आदेश/ORDER

PER DIVA SINGH

The present appeal has been filed by the assessee wherein the correctness of the order dated 12.07.2022 of NFAC, Delhi sitting as First Appellate Authority pertaining to 2014-15 assessment year is challenged on various grounds including ground No.3 which read as under :

- 1. That the Learned Commissioner of Income Tax (Appeals), NFAC Delhi has erred in rejecting the appeal of the assessee without considering the facts of the case and without considering the submissions filed by the assessee. Therefore, order passed by Learned Commissioner of Income Tax (Appeals), NFAC Delhi is illegal,-unwarranted and uncalled for.*
- 2. That the Learned Commissioner of Income Tax (Appeals), NFAC Delhi has erred in sustained the order passed by the Learned Assessing Officer, whereas no notice dated 31/07/0019 fixed for hearing on 08/08/2019 was ever served upon the assessee. That the assessment order passed by the learned Assessing Officer u/s 154 of the Act dated 04/11/2019 has been*

passed without giving any opportunity to the assessee. Therefore Assessment order passed u/s 154 passed by the Learned Assessing Officer and sustained by the Learned Commissioner of Income Tax (Appeals), NFAC Delhi is illegal, unwarranted and uncalled for and needs to be quashed.

3. That the Learned Commissioner of Income Tax (Appeals), NFAC Delhi has erred in sustained the disallowances made u/s 40a(ia) amounting to Rs. 4,59,770/- by the Learned Assessing Officer on account of TDS not deducted on Interest paid to Close relations. That the assessee not deduct the Tax at source as the assessee was not required to deducted tax at source due to the fates the assessee has submitted form 15G with Office of Hon'ble Commissioner of Income Tax, Ludhiana on 04/04/2014 which have been received from his close relatives. Therefore, disallowance of Rs. 4,59,770/- made u/s 40a(ia) made by the Learned Assessing Officer and Sustained by the Learned Commissioner of Income Tax (Appeals), NFAC Delhi is illegal, unwarranted and uncalled for and needs to be deleted.

4. That the appellants craves to leave or to amend the grounds of appeal before or at the time of hearing.”

2. At the time of hearing, an application has been placed on behalf of the assessee pleading that the appeal may be decided on the basis of written submissions as the assessee does not seek an opportunity of being heard.

3. The ld. Sr.DR relied upon the order. It was his submission that the assessee failed to file 15G Forms before AO despite an opportunity.

4. We have heard the rival submissions and perused the material available on record. In the facts of the present case, it is seen that the assessment order passed u/s 143(3) dated 19.05.2016 was revised by the AO u/s 154 of the Income Tax Act. It is seen that the AO noticed that the assessee had paid interest charges of Rs.4,59,770/- to close relations and TDS u/s 194A thereon was not deducted nor deposited in the

government account. Accordingly, a disallowance u/s 40A of the Income Tax Act was made. The assessee assailed this order before the First Appellate Authority pleading lack of opportunity. However, the assessee's claim was dismissed holding that the assessee had merely furnished copy of letter addressed to CIT(A) Ludhiana stating that form No.15G in respect of three persons were being submitted. Accordingly, questioning that why they could not have been filed in the present proceedings, the disallowance made was sustained. Aggrieved, the assessee is in appeal before ITAT.

5. Considering the issues and the submissions which remained near identical, we find that it is not coming out from the order whether 15G form was filed or not. Even before us, the assessee has filed copy of the application dated 04.04.2014 stating that the duplicate 15G forms are being filed, however, they are not found included in the written submissions placed before us.

6. Accordingly, hearing the ld. Sr.DR it was deemed appropriate to set aside the impugned order back to the file of the AO with direction to verify whether 15G Forms for the requisite period are available on record or not. We find that a claim has been made, however, the assessee has not substantiated this fact even before us. Hence, in the interests of substantial justice, the orders are set aside. The

assessee in its own interests is directed to ensure full and proper compliance before the said authority. Said order was pronounced in the Open Court at the time of hearing itself.

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

Order pronounced in the Open Court on 15th December, 2022.

Sd/-
(VIKRAM SINGH YADAV)
लेखा सदस्य/ Accountant Member

Sd/-
(DIVA SINGH)
न्यायिक सदस्य/ Judicial 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 आधिकारण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar