

आयकर अपीलिय अधिकरण, चण्डीगढ न्यायपीठ "ए", चण्डीगढ  
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH

HEARING THROUGH: VIRTUAL MODE

श्री आकाश दीप जैन, उपाध्यक्ष एवं श्री विक्रम सिंह यादव, लेखा सदस्य  
BEFORE: SHRI. AAKASH DEEP JAIN, VP & SHRI. VIKRAM SINGH YADAV, AM

आयकर अपील सं. / ITA NO. 465/Chd/2019  
निर्धारण वर्ष / Assessment Year : 2009-10

Impel Forge & Allied Industries Ltd. D-2 Focal Point, Phase-V, Dhandari Kalan, Ludhiana	बनाम	The DCIT CC-1, Ludhiana
स्थायी लेखा सं. / PAN NO: AAACI3799R		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारित की ओर से/ Assessee by : Shri Sarabjit Garg, CA  
राजस्व की ओर से/ Revenue by : Smt. Amanpreet Kaur, Sr. DR

सुनवाई की तारीख/ Date of Hearing : 05/02/2024  
उद्घोषणा की तारीख/ Date of Pronouncement : 07/02/2024

**आदेश/Order**

**PER VIKRAM SINGH YADAV, A.M. :**

This is an appeal filed by the Assessee against the order of the Ld. CIT(A)-5, Ludhiana dt. 15/01/2019 pertaining to A.Y. 2009-10.

2. Briefly, the facts of the case are that the assessment in this case was originally completed under section 143(3) dt. 24/12/2010. Thereafter, basis certain information received from DIT (Intelligence & Criminal Investigation), Chandigarh, the AO recorded reasons regarding escapement of income and notice under Section 148 was issued to the assessee on 29/03/2014. Thereafter, the order under section 143(3) r.w.s 147 was passed on 25/06/2014 wherein share premium amounting to Rs. 7,00,000/- was treated as unexplained income and brought to tax under Section 68 of the Act.

3. Being aggrieved, the assessee carried the matter in appeal before the Ld. CIT(A) who has since sustained the said addition. Against the said findings and direction of the Ld. CIT(A), the assessee is in appeal before us.

4. In Ground No. 4, the assessee has challenged the action of the Ld. CIT(A) in upholding the reassessment order without appreciating that reassessment order was passed even before the assessee could file its objection to reasons so recorded and THE notice issued under Section 148 on the appointed date.

5. In this regard, the Ld. AR drawn our reference to the order of the AO wherein at para 2.1, it was stated that notice under section 148 was issued to the assessee on 29/03/2014. Thereafter, questionnaire along with notice under section 143(2) and 142(1) were issued on 06/06/2014 fixing the case for hearing on 12/06/2014 which was later on adjourned to 19/06/2014. Thereafter, another notice under section 143(2)/142(1) along with questionnaire were issued and reasons so recorded were supplied to the assessee on 20/06/2014 fixing the case for hearing on 24/06/2014 which was adjourned at the request of the assessee on 26/06/2014.

6. It was submitted that the assessee filed its objection to the reasons so recorded under section 148 on 26/06/2014 and copy of the objection so filed are placed at assessee's paper book page no. 86 to 103 and by that time, the AO had already passed the reassessment order on 25/06/2014. It was submitted that it is therefore a case where the assessee was granted time to file its objection till 26/06/2014 and on the appointed date, the assessee did file its objection, however before assessee could file its objection to the notice under section 148, the AO went ahead and passed the reassessment order under section 143(3) r.w.s 147 of the Act on 25/06/2014.

7. Per contra, the Ld. DR drawn our reference to para 2.2 of the assessment order wherein the AO has stated that the assessee through authorized representative attended the proceedings and furnished objections which have been examined and found not tenable by the AO as reasons have been recorded after independent application of mind by the AO on the basis of information in his possession. Moreover, issues raised by the assessee are

discussed in detail in the reasons so recorded. It was accordingly submitted that the objection so raised by the assessee have been duly taken into consideration and the same has been disposed off by the AO and therefore it is not a case where the objection have not been disposed off. The Ld. DR accordingly relied on the order of the AO as well as the Ld. CIT(A).

8. We have heard the rival contentions and perused the material available on the record. From the sequence of events as brought to our notice by the Ld. AR and which are manifestly clear from the perusal of the assessment order, it is a case where the copy of the reasons were supplied to the assessee on 20/06/2014 and the matter was scheduled for hearing on 24/06/2014 and thereafter, it was adjourned to 26/06/2014 and in the interim, the AO went ahead and passed the order on 25/06/2014. The assessee did file its objections on 26/06/2014 which couldn't obviously be taken into consideration where the order itself was passed on 25/06/2014. It is therefore a case where the assessee has been denied an effective opportunity to file its objections to the reasons so recorded by the AO for reopening its case and for that matter, for the AO to consider the said objections and pass a speaking order disposing off the said objections in terms of the law laid down by the Hon'ble Supreme Court in case of GKN Driveshaft's (India) Ltd. Vs. DCIT(2003) 259 ITR 19.

9. In light of aforesaid and as agreed to by both the parties during the course of hearing, we deem it appropriate that the matter be set aside to the file of the AO to pass a speaking order disposing off the assessee's objection to the reasons so recorded under section 148 of the Act.

10. In view of the same, the consequent reassessment order is also set-aside to the file of the AO who shall pass the same afresh as per law after providing reasonable opportunity to the assessee. The other grounds of appeal so taken by the assessee have therefore become infructious and have not been adjudicated upon.

11. In the result, appeal of the Assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 07/02/2024

Sd/-

आकाश दीप जैन  
(AAKASH DEEP JAIN)  
उपाध्यक्ष / VICE PRESIDENT

Sd/-

विक्रम सिंह यादव  
(VIKRAM SINGH YADAV)  
लेखा सदस्य/ ACCOUNTANT MEMBER

AG

Date: 07/02/2024

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