

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

HEARING THROUGH: HYBRID 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.250/Chd/2023
निर्धारण वर्ष / Assessment Year : 2018-19

M/s Crown Milk Specialities Private Limited # 1721, Sector 33, Chandigarh	बनाम	The DCIT JCIT OSD, Cir 4(1) Chandigarh
स्थायी लेखा सं. / PAN NO: AACCC3806B		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारित की ओर से/ Assessee by : Shri T.N. Singla, C.A
राजस्व की ओर से/ Revenue by : Smt. Amanpreet Kaur, Sr. DR

सुनवाई की तारीख/ Date of Hearing : 07/12/2023
उद्घोषणा की तारीख/ Date of Pronouncement : 05/03/2024

आदेश/Order

PER VIKRAM SINGH YADAV, A.M. :

This is an appeal filed by the Assessee against the order of the Ld. CIT(A)/ NFAC Delhi dt. 31/03/2023 pertaining to Assessment Year 2018-19.

2. In the present appeal, the Assessee has raised the following grounds of appeal:

1. That the order of learned Commissioner of Income Tax (Appeals) is bad and against the facts and law.
2. That the learned Commissioner of Income Tax (Appeals) wrongly passed order u/s 250 of the Act without considering the submission and documentary evidences filed by the appellant company against the principles of natural justice.
3. That the learned Commissioner of Income Tax (Appeals) realized after 3 years that there is defect in Form 35 and issued only one notice for seven days on 20.03.2023 and wrongly rejected the appeal of the appellant company without providing proper opportunity of being heard.
4. That the Learned Commissioner of Income Tax (Appeals) has wrongly upheld the addition made u/s 154 without issue of notice u/s 143(2) of the Act.
5. That the learned Commissioner of Income Tax (Appeals) has wrongly upheld amount of Rs. 34,172/- on account of late deposit of ESI/PPF without issuing notice u/s 142(1) of the Act.

6. *That the learned Commissioner of Income Tax (Appeals) has wrongly upheld amount of Rs. 76417/- u/s 43B on account of late payment of bonus for AY 2017-18 without issuing notice u/s 142(1) of the Act.*

7. *That the learned Commissioner of Income Tax (Appeals) has wrongly upheld amount of Rs. 12,401/- on account of interest on VAT without issuing notice u/s 142(1) of the Act.*

8. *That the learned Commissioner of Income Tax (Appeals) has wrongly erred in making addition of Rs. 1,02,735/- under Income from Other Sources without issuing notice u/s 142(1) of the Act.*

9. *That the appellant craves leave to add, alter, leave or amend any ground of appeal before the final date of hearing.*

3. During the course of hearing the Ld. AR submitted that the appeal of the assessee has been dismissed without providing proper opportunity to the assessee. It was submitted that only one notice was issued by the Ld. CIT(A), NFAC Delhi on 20/03/2023 and merely for the reason that the assessee could not respond to the said notice, the appeal has been dismissed by the Ld. CIT(A), NFAC. It was submitted that in the past, there were around 8 notices which have been issued by the Ld. CIT(A) in a span of three years against which the assessee had filed the responses from time to time. However there was no communication from the Ld. CIT(A), thereafter the matter was transferred to the NFAC, Delhi wherein the appeal of the assessee has been dismissed stating that there were certain defects while filing the appeal.

3.1 It was submitted that all through the proceedings, the assessee was never communicated about any such defect when the matter was listed from time to time and notices were issued which were duly responded to and it was only on one occasion that the defect notice was issued by the Ld. CIT(A), NFAC Delhi and the assessee was in the process of responding to the same and before the assessee could have responded to the said notice, the impugned order has been passed by the Ld. CIT(A), NFAC Delhi. It was accordingly submitted that the appeal has been dismissed in violation of principle of natural justice and therefore the assessee be granted an opportunity to rectify any defect so pointed out by the Ld. CIT(A), NFAC Delhi and be heard on merits of the case.

4. Per contra, the Ld. DR did not raised any objection where the matter is set aside to the file of the Ld. CIT(A).

5. We have heard the rival contention and perused the material available on the record. We find that the matter was earlier before the Ld. CIT(A)-1, Chandigarh and thereafter the matter was transferred to the Ld. CIT(A), NFAC Delhi and the notices were issued from time to time which were duly responded to by the assessee and there was last notice dt. 15/03/2023 issued by the Id CIT(A)- Chandigarh which was responded to by the assessee on 17/03/2023 and thereafter, the another notice was issued on 20/03/2023 by the Id CIT(A), nfac, Delhi and due date of compliance was fixed for 27/03/2023 and in the said notice, there were certain defect which were pointed out for the first time by the Ld. CIT(A), NFAC Delhi. Thereafter the impugned order was passed on 31/03/2023. We therefore find that it is not a case where the assessee has not responded to the notices which have been issued by the Ld. CIT(A) from time to time and it is only on the last occasion where the notice so issued could not be responded to by the assessee. We therefore find that the assessee be allowed one more opportunity to rectify the necessary defect as so pointed out by the Ld. CIT(A) and be heard on merits. Accordingly, the matter is set aside to the file of the Ld. CIT(A) to decide the same afresh after providing due and reasonable opportunity to the assessee.

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

Order pronounced in the open Court on 05/03/2024

Sd/-

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

Sd/-

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

AG

Date: 05/03/2024

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