

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

**BEFORE: HON'BLE JUSTICE (RETD) C.V. BHADANG, PRESIDENT &  
SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No. 644/CHD/2024

निर्धारण वर्ष / Assessment Year : 2020-21

Alfa Radiological Centre Pvt.Ltd., Patiala.	बनाम VS	The DCIT, Circle, Patiala.
स्थायी लेखा सं./PAN /TAN No: AADCA7768D		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Parikshit Aggarwal, CA &  
Ms. Shruti Khandelwal, Advocate  
राजस्व की ओर से/ Revenue by : Smt. Amanpreet Kaur, Sr.DR  
तारीख/Date of Hearing : 12.07.2024  
उद्घोषणा की तारीख/Date of Pronouncement : 12.07.2024

**PHYSICAL HEARING**

**आदेश/ORDER**

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

This is an appeal filed by the assessee against the order of  
ld. CIT(A) NFAC, Delhi dated 23.04.2023 pertaining to  
assessment year 2020-21 wherein the assessee has taken the  
following grounds of appeal :

1. That on the facts, circumstances and legal position of the case, Worthy CIT(A), NFAC in Appeal No. NFAC/2019-20/10212386 has erred in passing order u/s 250 dated 23.04,2023 as the same is in contravention of provisions of s. 250 of the Income Tax Act, 1961 (hereinafter referred to as "Act").
2. That on facts, circumstances and legal position of the case, the Worthy OT(A) has erred in confirming the disallowance of loss of Rs. 1,06,84,201/- made by the Ld. AO(CPC) without any reason and assessing current year income at Rs. 21,69,570/-.

*3. That on facts, circumstances and legal position of the case, the order passed by the Ld. AO(CPC) and then by Worthy CIT(A) deserves to be quashed since the same has been passed without affording reasonable opportunity of being heard to the appellant.*

2. Briefly the facts of the case are that the assessee is a Private Limited company. It filed its return of income declaring 'nil' income after setting off business loss u/s 72 of the Act. The return of income was processed by CPC, Bangalore u/s 143(1) wherein the CPC has disallowed the adjustment of brought forward losses. The assessee thereafter moved a rectification application u/s 154 which was also dismissed by CPC vide order dated 07.07.2022.

3. Being aggrieved, the assessee carried the matter in appeal before the ld. CIT(A) who has dismissed the appeal so filed by the assessee and against the said order, the assessee is in appeal before us.

4. During the course of hearing, the ld. AR submitted that the assessee has filed its return of income after setting off business loss which was brought forward from earlier assessment years namely, assessment year 2012-13, 2015-16 and 2016-17 totaling to Rs.1,06,84,301/- and the same was adjusted against the current year income of Rs.26,20,666/- and the balance loss was carried forward to the subsequent year in the return filed by the assessee within the prescribed due date. It was submitted that

the CPC disallowed the adjustment of brought forward loss u/s 143(1) without assigning any reason and even the rectification application was dismissed without providing any opportunity of being heard to the assessee. It was further submitted that the ld. CIT(A) also issued a single notice and that too, a deficiency notice dated 03.04.2023 against which the assessee filed its response on 10.04.2023 and thereafter, the ld. CIT(A) decided the appeal against the assessee vide the impugned order dated 23.04.2023 by merely relying on the return of income filed by the assessee and without providing any further opportunity to the assessee which is in complete violation of principle of natural justice. It was submitted that the losses pertain to assessment year 2012-13, 2015-16 and 2016-17 and the same is a subject matter of record and given that the assessee has the positive business income during the year and the year of claim of set off, the brought forward losses were set off and the remaining brought forward losses were carried forward to the subsequent assessment year in terms of provisions of Section 72 of the Act. It was, accordingly, submitted that the matter may be remanded back to the file of ld. CIT(A) for fresh adjudication on merit after providing reasonable opportunity to the assessee.

5. Per contra, the ld. DR relied on the order passed by the ld. CIT(A). At the same time it was submitted that the Revenue has no objection where the matter is set aside to the file of ld. CIT(A)

to examine the veracity of claim of the assessee that the losses pertain to the earlier assessment years and the assessee is eligible to claim set off of those losses against the current year income.

6. After hearing both the parties and considering the material available on record, we deem it appropriate to set aside the matter to the file of Id. CIT(A) to decide the same afresh as per law after providing reasonable opportunity to the assessee. The assessee is at liberty to raise the necessary contentions before the Id CIT(A) and all such contentions are thus left open and to be decided by the Id CIT(A) as per law.

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

Order pronounced on 12<sup>th</sup> July ,2024.

**Sd/-**

**(JUSTICE (RETD) C.V. BHADANG)  
PRESIDENT**

**Sd/-**

**(VIKRAM SINGH YADAV)  
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. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,  
सहायक पंजीकार/ Assistant Registrar