

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़
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

Miscellaneous Application No. 54/Chd/2023

In

आयकर अपील सं. / ITA NO. 471/Chd/2015

निर्धारण वर्ष / Assessment Year : 2003-04

M/s Haryana Urban Development Authority, Sector-6, Panchkula	बनाम	The DCIT Panchkula Circle, Panchkula
स्थायी लेखा सं. / PAN NO: AAAAH0087M		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Miscellaneous Application No. 125/Chd/2018

In

आयकर अपील सं. / ITA NO. 471/Chd/2015

निर्धारण वर्ष / Assessment Year : 2003-04

The ACIT Circle, Panchkula	बनाम	M/s Haryana Urban Development Authority, Sector-6, Panchkula
स्थायी लेखा सं. / PAN NO: AAAAH0087M		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by :

Ms. Rattan Kaur, C.A

राजस्व की ओर से / Revenue by :

Smt. Amanpreet Kaur, Sr. DR

सुनवाई की तारीख / Date of Hearing : 31/05/2024

उद्घोषणा की तारीख / Date of Pronouncement : 26/08/2024

आदेश / Order

PER VIKRAM SINGH YADAV, A.M. :

These are two Misc. Applications filed by the Assessee and the Revenue against the order passed by the Coordinate Bench dt. 06/02/2018 in ITA No. 471/Chd/2015 pertaining to Assessment Year 2003-04.

2. The common grounds taken by both the parties in the respective Misc. Applications is that in the consolidated order so passed by the Coordinate Bench for various assessment years, the grounds of appeal taken by the assessee in its appeal for A.Y 2003-04 have not been adjudicated upon by the Coordinate Bench and therefore there is a mistake which is apparent from the record and to that limited extent, the

consolidated order passed by the Coordinate Bench dt. 06/02/2018 to the extent it pertains to A.Y 2003-04 be recalled and the matter be fixed for hearing afresh on merits.

3. Heard both the parties and perused the Misc. Applications filed by the respective parties as well as the consolidated order passed by the Coordinate Bench dt. 06/02/2018 for A.Y. 2003-04 to 2014-15. On perusal of the order passed by the Coordinate Bench dt. 06/02/2018, we find the contention so raised by both the parties as correct as we find that the order has been passed for various A.Y's and in so far as the appeal for A.Y. 2003-04 and the grounds of appeal taken therein by the assessee are concerned, though some of the grounds of appeal are common with appeals for other assessment years, the same have neither been specifically adjudicated upon by the Coordinate Bench nor findings for other years has been stated to be applicable for A.Y 2003-04. Therefore, no finding has been given for A.Y 2003-04 disposing off the said grounds of appeal and said grounds have thus remained un-adjudicated. In view thereof, we agree with the contention raised by both the parties that there is a mistake apparent from the record. We therefore recall the order so passed by the Coordinate Bench, to this limited extent, for deciding the grounds of appeal taken by the assessee for A.Y 2003-04 as stated supra afresh on merits of the case.

4. Before parting, it may be noted that the Registry has pointed out delay in filing misc. application by the assessee. As we have noted above, common contention has been raised in both the misc. application in terms of non-adjudication of grounds of appeal taken in assessee's appeal by the Coordinate Bench and thus, the misc. application so filed by the assessee supports the misc. application filed by the Revenue. Having said that, where the appeal and grounds taken therein in assessee's appeal for A.Y 2003-04 have not been adjudicated upon, the assessee cannot be left remedy less and deserve to be heard and technicalities of section 254(2) and limitation therein cannot come in the way of hearing the matter. It is not a case where the assessee is seeking rectification in the strictest sense of any facts or arguments or ground of appeal not been decided, it is a case where the whole of the appeal and all the grounds taken therein have not been decided. In such a situation, we are of the considered view that the assessee's application deserve to be admitted and is hereby allowed.

5. The Registry is hereby directed to list the matter in ITA No. 471/Chd/2015 in due course. Issue notice to the parties.

6. In the result, both the Misc. Applications are disposed off in light of above directions.

(Order pronounced in the open Court on 26/08/2024)

Sd/-

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

Sd/-

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

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