

आयकर अपीलिय अधिकरण, चण्डीगढ़ न्यायपीठ "बी", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "B", 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.87/Chd/2024
निर्धारण वर्ष / Assessment Year: 2018-19

Omsons Marketing Private Limited Quila Chowk, Faridkot Punjab- 151203	बनाम	The DCIT, Central Circle-2 Ludhiana
स्थायी लेखा सं. / PAN NO: AAACO8962E		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारिती की ओर से/ Assessee by : Shri Parveen Kumar, Advocate
राजस्व की ओर से/ Revenue by : Shri Vivek Vardhan, JCIT, Sr. DR

सुनवाई की तारीख/ Date of Hearing : 29/08/2024
उद्घोषणा की तारीख/ Date of Pronouncement : 30/08/2024

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. 04/12/2023 pertaining to Assessment Year 2018-19.

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

1. That the Ld. CIT(A) has erred in passing the order Ex-parte without giving proper/reasonable opportunity of being heard and has failed to appreciate that there was a reasonable cause in not submitting the reply on the merits of the case.

2. Notwithstanding the above said ground of appeal there was a reasonable cause a not filing submissions before the CIT(A), since the counsel the counsel of the assessee did not intimate about the date of hearing of the case and a such there was a reasonable cause in not submitting reply before the appellate authority.

3. That the Ld. CIT(A) has erred in confirming the following additions:-

i) Addition of machinery repair and consumable Rs. 15,500/- (para 3.1 of the assessment order)

ii) Freight expenses Rs. 5,69,370/- (para 3.2 of the assessment order)

iii) Travelling expenses Rs. 4,37,730/- (para 3.3 of the assessment order)

iv) Commission expenses Rs. 63,91,502/- (para 3.4 of the assessment order)

4. That the Ld CIT(A) has erred in confirming the additions by passing the order appealed against ignoring the merits of the case and without considering the facts and submissions made before the Ld. Assessing Officer.

5. That the above said additions have been made against the facts and circumstances of the case.

6. The appellant craves for leave to add or amend any grounds of appeal during the course of appellate proceedings.

3. During the course of hearing, the Ld. AR submitted an affidavit of CFO of the assessee company stating that the email id provided in Form No. 35 was ajaygoyal@oasisgrp.in and notices for hearing were sent by the Ld. CIT(A) on this email id but he could not access the said email properly due to the migration process in the email IDs of whole group from Yahoo to Outlook. It was further submitted that there were search and seizure operations conducted on the assessee group on 18/05/2023 and due to such search and post search proceedings, Directors and Company officials were pre-occupied with the search proceedings and notices sent on email could not be accessed and responded to which has resulted in passing of the ex-parte order. It was submitted by the Id AR that the assessee is not going to gain anything by not responding to the notices as it was assessee's own appeal which it wishes to prosecute seriously and it was submitted that the assessee deserve one last opportunity before the matter is decided and it was accordingly prayed that the matter may be set-aside to the file of the Id CIT(A) to decide the same afresh after providing reasonable opportunity to the assessee.

4. The Ld. DR was heard, he did not raise any specific objection rebutting the contents of the affidavit and where the matter is set aside to the file of the Ld. CIT(A) to decide the same afresh.

5. After hearing both the parties and considering the material available on the record, we believe that the assessee deserve one more opportunity to represent its case and we deem it appropriate to set aside the matter back to the file of the Ld. CIT(A) to decide the same afresh as per law after providing reasonable opportunity to the assessee.

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

Order pronounced in the open Court on 30/08/2024

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. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar