

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

BEFORE: SHRI A.D.JAIN, VICE PRESIDENT AND
SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. 707/CHD/2023

निर्धारण वर्ष / Assessment Year : 2015-16

Sai Refinery, Shubham Plaza, Ist Floor Kasauli Road, Parwanoo.	Vs	The DCIT, Parwanoo.
स्थायी लेखा सं./PAN /TAN No: ABRFS9439H		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Neeraj Mangla, CA

राजस्व की ओर से/Revenue by : Shri Vivek Vardhan, JCIT, Sr.DR

तारीख/Date of Hearing : 28.08.2024

उद्घोषणा की तारीख/Date of Pronouncement : 04.09.2024

PHYSICAL HEARING

आदेश/ORDER

PER A.D.JAIN, VICE PRESIDENT

This is assessee's appeal for assessment year 2015-16 against the order dated 11.07.2023 passed by the ld. CIT(Appeals) NFAC, Delhi. The following grounds have been taken :

- 1. That the assessment order passed by Ld. AO as well as the appellate order passed by Ld. CIT(A) are bad in law and have been passed in contravention of prevailing law as well as facts of the case, therefore liable to be annulled.*
- 2. That the Ld. CIT(A) grossly erred in holding that the assessee has not complied to the notices issued during appellate proceedings*

despite the fact that the written submissions were duly filed during physical hearing in the office of Ld. CIT(A).

- 3. That the Ld. AO grossly erred in law in holding that the income of Rs. 3,85,58,386/- being duty drawback, currency fluctuation gain and interest are not derived from eligible business and are thus not eligible for deduction u/s 80IC of the Act.*
- 4. That the Ld. AO grossly erred in law in holding that prior computing deduction u/s 80IC profits from eligible business are to be set-off against the losses under other heads as per the provisions of Sec. 70 of the Act and restricting the claim of deduction to Rs. 24,53,867/- as against the claim of the appellant of Rs. 1,78,00,851/-.*
- 5. That the Ld. AO grossly erred in law in disallowing Interest on late deposit on Custom Duty of Rs. 18,013/- despite the settled legal propositions that the same being not in the nature of penalty, it is not covered by the provisions of Explanation to Section 37(1) of the Act.*
- 6. That the Ld. CIT(A) grossly erred in law as well as on facts of the case in upholding ad-hoc disallowance of 10% of travelling expenses despite the fact that the Ld. AO has not enumerated any specific incidence of personal use or non production of evidences.*

2. On scrutiny, it is found that there is a delay of 72 days, as pointed out by the Registry, in filing the appeal before this Tribunal. The assessee has filed an application for condonation of delay explaining the reasons for the delay occurred in filing the present appeal. The assessee has stated that all the notices issued by the Income Tax Department were served on email id umastrips@gmail.com , which pertained to the retired Partner Shri Vineet Gupta, who did not inform the assessee about service of any notice or orders from the Income Tax Department. It is contended that Shri Neeraj Mangla, C.A., the new Counsel, appointed by the

assessee, after verification of e-filing Portal, intimated the assessee about the ex-parte order passed by the ld. CIT(A). It is further contended that due to differences between the partners and initiation of legal disputes etc., there was delay in filing the present appeal, by the assessee before the ITAT. It is also submitted that there was no malafide intention for delaying the filing of appeal.

3. Heard. After taking into consideration the contents of the application and the affidavit of the assessee, we are satisfied that the assessee was prevented by sufficient cause from filing the appeal in time. Even otherwise, the assessee cannot be said to stand to gain anything by deliberately delaying the filing of the appeal before this Tribunal. Therefore, in the interest of justice, the delay of 72 days caused in filing the present appeal is condoned.

2. The ld. Counsel for the assessee has invited our attention to the impugned order of the ld.CIT(A) to submit that the ld.CIT(A) has rejected the appeal of the assessee without affording a proper opportunity of being heard. It is further submitted that the written submissions were duly filed, but the ld. CIT(A) has passed the ex-parte only on the

basis of alleged non-compliance of notices.

3. The ld. Sr.DR has relied on the impugned order.

4. We have heard the parties and have perused the material on record. After considering the facts and circumstances of the case and in the interest of justice, we deem it appropriate to restore the appeal to the file of ld. CIT(A) to decide the matter afresh in accordance with law after giving a reasonable opportunity of being heard to the assessee. The assessee, no doubt, shall cooperate in the fresh proceedings before the CIT(A).

8. The appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced on 04.09.2024.

Sd/-

**(VIKRAM SINGH YADAV)
ACCOUNTANT MEMBER**

Sd/-

**(A.D.JAIN)
VICE PRESIDENT**

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