

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

HEARING THROUGH: HYBRID MODE

श्री विक्रम सिंह यादव, लेखा सदस्य एवं श्री परेश म. जोशी, न्यायिक सदस्य
BEFORE: SHRI. VIKRAM SINGH YADAV, AM & SHRI. PARESH M. JOSHI, JM

आयकर अपील सं. / ITA NO. 95/Chd/2024
निर्धारण वर्ष / Assessment Year : 2012-13

Modern Automotives Limited SCO- 98-99, Sector 34-A Chandigarh-160022	बनाम	The ITO,W-4(3), Chandigarh
स्थायी लेखा सं. / PAN NO: AAECM4824B		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारित की ओर से/ Assessee by : Shri Amitoz Singh Kamboj, C.A
राजस्व की ओर से/ Revenue by : Shri Vivek Vardhan, JCIT, Sr. DR
सुनवाई की तारीख/ Date of Hearing : 02/09/2024
उद्घोषणा की तारीख/ Date of Pronouncement : 03/09/2024

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 dt. 30/11/2023 pertaining to Assessment Year 2012-13.

2. The main grievance of the assessee in the present appeal relates to the ex-parte order passed by the Ld. CIT(A)/ NFAC, Delhi in violation of principles of natural justice.

3. Facts of the case in brief are that the assessee company had e-filed its return of income for the A.Y. 2012-13 on 05/11/2019 declaring current year losses at Rs. 57,03,349/-. The original assessment in this case was completed on 27/02/2015 under section 143(3) of the Act. As per information available with the AO, it was noticed that during the F.Y. 2011-12 relevant to A.Y. 2012-13, the assessee company had received accommodation entry of Rs. 1.50 Cr. from M/s Kamlesh Auto Private Limited which was being operated by Shri Tarun Goyal, an entry operator. The case was re-opened under section 147 of the Act after following due procedure. Thereafter, notice under section 148 was issued on 30/03/2019 and Notice under section 142(1) alongwith questionnaire were issued on 30/08/2019 through ITBA. The assessee company had filed part reply on 13/09/2019 and thereafter, after issuance of show-cause and in absence of any further

submissions, the transaction of Rs. 1,50,00,000/-, being the accommodation entry from M/S Kamlesh Auto Pvt Ltd was brought to tax u/s 68 of the Act and the assessed income was determined at Rs. Rs. 92,96,651/-.

4. Being aggrieved, the assessee carried the matter in appeal before the Ld. CIT(A) who sustained the addition made by the Assessing Officer by passing the ex-parte order. Now the assessee is in appeal before us.

5. The Ld. Counsel for the Assessee submitted that Ld. CIT(A) was not justified in passing the ex-parte order and confirming arbitrary addition made by the Assessing Officer. It was submitted that the assessee had changed his Counsel and was putting in requisite efforts and co-coordinating with the new Counsel to prepare the appropriate response and compile the information and documents as required for the submissions, however, in the meantime, the Ld CIT(A) passed the impugned order. It was submitted that the assessee be provided an opportunity to represent its case on merits and the matter may accordingly be set-aside to the file of the Ld CIT(A).

6. In his rival submissions, the Ld. Sr. DR supported the orders of the authorities below and submitted that necessary opportunities were provided to the assessee, at the same time, the assessee was not diligent about prosecuting its appeal leading to the passing of the ex-parte order. At the same time, it was fairly submitted that the Revenue has no objection where the matter is set-aside to the file of the Ld CIT(A) to decide the same on merits of the case.

7. We have considered the rival submissions and perused the material available on the record. In the present case, it is noticed that the matter was scheduled for hearing on 19/10/2023 wherein the assessee has made similar pleadings before the Ld CIT(A) in terms of appointing and coordinating with the new Counsel and had requested for adjournment. Thereafter, the matter was adjourned and scheduled for hearing on 17/11/2023 and on the said date, there was however no compliance on part of the assessee and thereafter, the Ld. CIT(A) proceeded with the matter and stated that during the appellate proceedings, no written submissions nor any documentary evidence were filed by the assessee in support of grounds of appeal on the basis of

which the ground can be allowed and the assessee has clearly failed to discharge his basic burden of proof and appeal of the assessee was decided ex-parte qua the assessee. Keeping in view the principles of natural justice, we believe that the assessee deserves one more opportunity to represent its case and be heard on merits of the case. We deem it appropriate to set aside the matter to the file of Ld. CIT(A) to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of being heard to the assessee. Needless to say, the assessee shall cooperate in timely completion of the appellate proceedings and submitted necessary information/documentation as so advised and/or called for.

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

Order pronounced in the open Court on 03/09/2024

Sd/-

परेश म. जोशी
(PARESH M. JOSHI)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-

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

AG

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