

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

HEARING THROUGH: PHYSICAL 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. 702/Chd/2023
निर्धारण वर्ष / Assessment Year : 2011-12

Venus County Developers Pvt. Ltd. 620, Ambay Building, Lakkar Bazar, Ludhiana-141008, Now (5 th Floor, Grand Walk Mall, Ferozepur Road, Ludhiana-141210	बनाम	The ACIT, Circle-2, Ludhiana
स्थायी लेखा सं. / PAN NO: AADCV2580J		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : None (Adjournment Application)
राजस्व की ओर से / Revenue by : Shri Vivek Vardhan, JCIT, Sr. DR
सुनवाई की तारीख / Date of Hearing : 05/09/2024
उदघोषणा की तारीख / Date of Pronouncement : 13/09/2024

आदेश / Order

PER PARESH M. JOSHI, J.M. :

This is an appeal filed by the Assessee under section 253 of the Income Tax Act, 1961. The relevant assessment year is 2011-12. The assessee is aggrieved by the order dt. 12/07/2023 passed in appeal No. 10505/2018-19/IT/CIT(A)-5/Ldh/2019-20 under section 250(6) of Ld. CIT(A) which is hereinafter referred to as the **impugned order**.

2. The assessee has raised following grounds of appeal in Form No. 36 against the impugned order:

1. The Learned CIT (A)-5, Ludhiana erred in passing the order without considering our reply in their record/e-filing portal, filed on 24.06.2023 on E-Portal of Income Tax Department in compliance to the notice under section 250(1) of the Income Tax Act, 1961 dated 20.06.2023, the due date of the notice was 26.06.2023. The assessee filed the reply on 24.06.2023 much before the due date.

2. Further, Assessee Company also submitted the hard copy of the reply along with supporting documents (same as filed on E-Portal) in the office of the CIT (A)-5, Ludhiana on 12.07.2023, this the same day in which the alleged order had been passed by the Ld. CIT (A)-5, Ludhiana.

3. *The Learned CIT (A)-5, Ludhiana erred in violation of sub-section 6 of section 250 of the Income Tax Act, 1961, by ignoring our reply filed on 24.06.2023 before passing the alleged order dated 12.07.2023.*

4. *The Learned CIT (A) erred in passing order without giving reasonable opportunity to the appellant and not on the merit of the case. Thus, principal of natural justice has been contravened by the CIT(A)-5, Ludhiana.*

5. *The Ld. CIT(A)-5, Ludhiana disallowed payment of Rs. 33,63,555/- incurred on purchase of agriculture land u/s 40A(3) of the the Income Tax Act, 1961, whereas this payment was never debited to Profit & Loss Account and moreover cash payment for purchase of land was not debarred in A.Y which was applicable in subsequent years and the payment fall in exceptional circumstances covered under Rule 6DD of the Income Tax Rules as applicable.*

6. *The order of commissioner of income tax (appeals) on the above issues raised in the appeal be set aside and that of assessing officer be resorted to.*

7. *That the appellant craves leave for any addition, deletion or amendment in the grounds of appeal on or before the disposal of the same.*

Record of Hearing

3. The hearing in the matter took place on 05/09/2024 when the Ld AR of the assessee presented an application dt. 03/09/2024 seeking adjournment for 05/09/2024 due to some unavoidable circumstances. Since no reasons were given for seeking adjournment which can said to be legitimate we rejected the same. The Ld. DR then pointed out to us that impugned order is exparte and the Ld. CIT(A) at least should have considered reply dt. 24/06/2023 before passing impugned order. Hence it would be just fair and convenient and in the interest of justice that the impugned order be set aside and matter be send back to the file of Ld. CIT(A) with a direction to consider reply of the assessee which is dated 24/06/2023.

Findings and Conclusions

4. In the premises, we have examined the records of the proceedings both before Ld. AO and Ld. CIT(A) as placed before us including Form No. 36 & 36. After perusing the same we are of the considered opinion that Ld. CIT(A) ought to have passed the "impugned order" only after considering reply of the assessee dt. 24/06/2023 which was filed much before the due date of notice which was 26/06/2023. We therefore hold that impugned order is in violation of principles of natural justice. Accordingly we set aside the impugned order with a direction to Ld. CIT(A) to pass a fresh order on denovo basis

after considering reply of assessee dt. 24/06/2023. Full and complete opportunity be afforded to the assessee. Assessee is directed to cooperate fully with Department in early disposal of first appeal.

Order

5. The impugned order is set aside as and by way of remand.
6. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 13/09/2024

Sd/-

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

Sd/-

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