

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़  
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", 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. 785/Chd/2023  
निर्धारण वर्ष / Assessment Year : 2018-19

M/s Standard Corporation India Ltd. Handiaya Chowk, Barnala	बनाम	The DCIT Central Circle, Patiala
स्थायी लेखा सं. / PAN NO: AAFCS4440L		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारिती की ओर से/ Assessee by : None (Adjournment Application Rejected)  
राजस्व की ओर से/ Revenue by : Dr. Ranjeet Kaur, Sr. DR  
सुनवाई की तारीख/ Date of Hearing : 23/09/2024  
उद्घोषणा की तारीख/ Date of Pronouncement : 27/09/2024

**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 (hereinafter referred to as the 'Act' for sake of brevity) as and by way of second appeal under the Act. The relevant A.Y is 2018-19 and the corresponding previous year period is from 01/04/2017 to 31/03/2018. The assessee is aggrieved by the order dt. 30/10/2023 passed in Appeal No. 10397/CIT(A)-5/Ldh/(387)/2019-20 of Ld. CIT(A) passed in terms of Section 154 of the Act which is hereinafter referred to as the impugned order.

**Factual Matrix**

2. That an appellate order was passed by a predecessor CIT(A)-5 Ludhiana dt. 14/08/2020 in which the core issue was whether the employee's share of ESI/PF/LWF is allowed as deduction or not ? The appeal of the assessee was decided in favour of the assessee. Now as per the decision of the Hon'ble Supreme Court of India in Civil Appeal No. 2833 of 2016 in the case of Checkmate Services Pvt. Ltd. Vs. CIT-1 allowance of expenditure of employee's

share of ESI/PF/LWF needs to be rectified which was decided in the original appellate order in favour of the assessee. The CIT(A)-5, Ludhiana vide previous order dt. 14/08/2020 had allowed the expenditure amounting to Rs. 28,22,610/- on account of ESI/PF/LWF.

3. That two notice(s) came to be issued to the assessee dt. 20/04/2023 and 10/10/2023 as per provisions of Section 154 of the Act but same was not at all replied on merits. That the Ld. CIT(A) held that since no reply on merit has been filed by the assessee to the aforesaid notice(s) clearly implies that assessee has "No objection" to the proposed rectification. Therefore as per legal position, allowing late deposit of employee's share of ESI/PF/LWF beyond due date as per the Act is not allowed and if allowed same is mistake apparent on record in view of decision of Supreme Court in Checkmate case (supra). Therefore Ld. CIT(A) by impugned order disallowed Employee's share of Rs. 28,22,610/- of ESI/PF/LWF which was paid beyond due date and which was allowed as expenditure in earlier appellate order of CIT(A) dt. 14/08/2020. The said was treated as mistake apparent from record and was rectified accordingly finally the amount of Rs. 28,22,610/- was disallowed in terms of Section 154 of the Act and added back to the income of the assessee as and by way of impugned order which is challenged before us in appeal.

4. It is contended before this Tribunal in appeal that Ld. CIT(A) while passing the impugned order under section 154 of the Act rectifying earlier appellate order of Ld. CIT(A) dt. 14/03/2020 ought to have given an opportunity of hearing and that the same having been not given the impugned order is in violation of the principles of natural justice. The Ld. CIT(A) ought not to have confirmed the addition of Rs. 28,22,610/-.

5. We have perused the record of the case. We record that during hearing held before us on 23/03/2024 an application for adjournment was made without

furnishing elaborate reasons basis which adjournment for 23/09/2024 was sought consequently the application was rejected.

6. We after going through the record perse are of the opinion that even if assessee has no case on merits, nevertheless the Ld. CIT(A) ought to have given an opportunity of hearing before carrying out rectification under section 154 of the Act by passing the impugned order. Therefore we set aside the impugned order as being violative of principles of natural justice, illegal and not proper. Consequently the matter is remanded back to CIT(A) with a direction to Ld. CIT(A) to give an opportunity of hearing and to pass a fresh order on denovo basis as expeditiously as possible preferably within three months from date of receipt of this order.

7. Appeal of Assessee is allowed as and by way of remand on denovo basis.

8. Appeal allowed for statistical purposes.

Order pronounced in the open Court on 27/09/2024

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