

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. 573/Chd/2023
निर्धारण वर्ष / Assessment Year : 2016-17

AL Rasheed Charitable Society C/o Parikshit Aggarwal, Chartered Accountant H.No. 3035, Sector 27D, Chandigarh	बनाम	The DCIT(Exemptions) Chandigarh
स्थायी लेखा सं. / PAN NO: AAAAA5927H		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारित की ओर से/ Assessee by : Shri Parikshit Aggarwal, C.A
राजस्व की ओर से/ Revenue by : Shri Rohit Sharma, CIT DR
सुनवाई की तारीख/ Date of Hearing : 19/09/2024
उदघोषणा की तारीख/ Date of Pronouncement : 30/09/2024

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 Act) before this Tribunal. The relevant AY is 2016-17 and corresponding previous year period is from 01/04/2015 to 31/03/2016. The assessee is aggrieved by order No. ITBA/NFAC/S/250/2023-24/1054712149(1) 28/07/2023 passed by Ld. CIT(A) under section 250 of the Act, which is hereinafter referred to as the impugned order.

Brief Factual Matrix

2. The Return of Income for the A.Y.2016-17 was filed by the assessee on 11.10.2016 at Nil income and the same was processed under section 143(1) of the Act. The case of the assessee was selected through CASS for complete

scrutiny. After the issue of statutory notices, the AO examined the details. The AO has completed the assessment u/s.143(3) of the Act vide an order dated:21.12.2018 assessing the assessee as an AOP at the assessed total income of the assessee at Rs.7,01,67,544/- against the returned income of Rs. Nil after making the following additions/disallowances.

i) Disallowance of expenditure claimed on maintenance of worship places amounting to Rs. 2,48,56,722/-.

ii) Disallowance of expenditure Rs. 90,11,684/- out of total expenditure amounting to Rs. 1,80,23,368/-.

iii) Addition of Rs. 3,58,80,358/- claimed as corpus fund.

iv) Disallowance of depreciation claimed by the assessee amounting to Rs. 3,34,759/-.

3. The aforesaid assessment order of Ld. AO bears no. ITBA/AST/S/143(3)/2018-19/1014465877(1) dt. 21/12/2018.

4. That the assessee being aggrieved by the aforesaid assessment order dt. 21/12/2018 preferred first appeal under section 246A of the Act before Ld. CIT(A) who by impugned order has sustained the assessment order dt. 21/12/2018.

5. Being aggrieved by the aforesaid impugned order the assessee is before us in second appeal under section 253 and has urged before us that both the lower authorities i.e; Ld. AO and CIT(A) orders (supra) are in violation of the principles of natural justice as no opportunity of being heard was ever

given to the assessee and therefore on this limited ground the impugned order should be set aside and matter be remanded by the Tribunal.

6. That during the course of hearing above contention was pressed on 19/09/2024 by Ld. AR of the assessee. Paper books are filed too. The Ld. DR has more or less contended the same and has conquered with contention of Ld. AR.

7. In the premises we set aside the impugned order and remand the case back to the file of Ld. CIT(A) to adjudge and adjudicate the case afresh after taking into consideration all submissions of the assessee as made in the paper book filed before us including legal submissions if any. The Ld. CIT(A) to give opportunity of hearing so as to enable assessee to present its case in effective manner. The Ld. CIT(A) is directed to pass a fresh order on denovo basis after giving hearing to the assessee which order should be speaking and well reasoned order. The assessee is directed to give English translation of all documents which are in urdu / Arabic which should be only certified as true with affidavit of the translator so that CIT(A) can appreciate the facts in correct and right perspective. Assessee to fully cooperate with the Department and not to seek any unnecessary judgements. The Ld. CIT(A) is at liberty to carry out such further inquiries, verification and to call for such reports as Ld. CIT(A) deems fit and proper. Needless to state CIT(A) has all powers under the Act to dispose of first appeal as he /she deems fit and proper. The appeal to be disposed off as expeditiously as possible.

8. Impugned order is set aside as an by way of remand on denovo basis back to the file of CIT(A).

9. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 30/09/2024

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

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar