

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

BEFORE SHRI RAJPAL YADAY, VICE PRESIDENT &
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER

आयकर अपील सं./ **ITA Nos. 514 to 518/CHD/2024**

निर्धारण वर्ष / Assessment Years : 2013-14 to 2017-18

Yamuna Coal Company, C/o Rajiv Goel and Associates, 179, Bank Road, Ambala City	Vs. बनाम	The ITO, Yamunanagar
स्थायी लेखा सं./PAN No: AAIFY6856E		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Sh. Dhruv Goyal, CA

राजस्व की ओर से/ Revenue by : Sh. Ved Parkash Kalia, Sr.DR

सुनवाई की तारीख/Date of Hearing : 26.11.2024

उद्घोषणा की तारीख/Date of Pronouncement : 28.11.2024

आदेश/Order

Per Bench:

The present five appeals are directed at the instance of Assessee against separate orders of the Id. CIT(A) dated 4.3.2024 passed on the respective appeals of the Assessee for assessment years 2013-14 to 2017-18. The Assessee has taken five grounds of appeal in each assessment year. However, Id. Counsel for the Assessee, at the very outset, submitted that the assessment orders as well as impugned CIT(A)'s order are ex-parte. The notice of hearing was not

issued by the ld. First Appellate Authority on the e-mail of the Assessee, rather it was issued on old e.mail id of old Counsel and, therefore, Assessee could not prosecute the appeals before the ld. CIT(A).

2. With the assistance of the ld. Representatives we have gone through the record carefully. The facts in all these assessment years are common on all vital points, therefore, for the facility of reference, we are taking of the facts from A.Y. 2013-14. It emerges out from perusal of the assessment order that a search and seizure operation was carried out at one Majha Group. During such search it revealed to the Revenue that Assessee has given unsecured loans to various concerns of Majha Group. The Assessing Officer further observed that perusal of ITD data base it revealed that Assessee has not filed the return for F.Y. 2012-13. Thereafter, the Assessing Officer has issued notices and passed the assessment order u/s 144 read with section 147 of the Income Tax Act, 1961 (in short 'the Act').

3. The appeal to the CIT(A) did not bring any relief to the Assessee because basically the appeals are dismissed for want of prosecution. The ld. Counsel for the Assessee at the time of hearing placed on record a brief consolidated submissions. The ld. Counsel for the Assessee drew our attention towards a table reproduced in

paragraph No. 3 of the written submissions. We deem it appropriate to take note of these details, which read as under:-

AY	Additions made
2013-14	1,26,00,000
2014-15	1,21,75,000
2015-16	2,56,75,000
2016-17	2,54,25,000
2017-18	2,56,75,000
TOTAL	10,15,50,000

4. The Id. Counsel for the Assessee submitted that for example, in A.Y. 2013-14, a loan of Rs. 1.26 crores was alleged to be given by the Assessee to Majha Group but in A.Y. 2014-15, no fresh loan was given rather something was refunded by that concern and the balance was Rs. 1,21,75,000/-. In this way, double additions have taken place because assessment proceedings were ex-parte. He further pointed out that in A.Y. 2015-16, Assessee had granted only Rs. 1.35 Crores additional amount as against earlier year outstanding balance of Rs. 1.21 Crores. Thus, according to him by this multiplication, A.O. worked out unexplained loans given by the Assessee at Rs. 10.15 crores. He also pointed out that the reasons for not appearing before the Id. Assessing Officer was that old Counsel of the Assessee has given his e.mail and he did not respond to the notices. He further submitted that in appellate proceeding, Assessee has given fresh

e.mail id to the ld. CIT(A) but notice was not served upon the Assessee on the fresh e.mail id, rather it was again issued on the old mail. Due to that Assessee could not appear before the First Appellate Authority.

5. The ld. DR, on the other hand, was unable to controvert these submissions of the Assessee. He relied upon the impugned orders of the Revenue authorities.

6. On due consideration of the above facts and circumstances, we are of the view that adequate opportunity of hearing was not granted to the Assessee by the ld. First Appellate Authority because before the ld. CIT(A) Assessee has upgraded its latest e.mail id. Had the notice was given on such an e.mail id, then probably Assessee would be able to produce additional evidence and could also challenge the reopening of the assessment done by issuance of notice u/s 148 of the Act. Apart from above, we are of the view that sub clause 6 of section 250 contemplates that ld. CIT(A) would state the point in dispute and thereafter record reasons in support of conclusion on those points. In the present cases, this procedure has not been followed. Because on merit, the ld. First Appellate Authority has simply observed that in spite of five notices, Assessee did not appear. It has not been highlighted as to whether any fresh loan was given in assessment year 2014-15 or not. The exact information possessed by the Revenue regarding this transaction has nowhere been discussed or

alleged to have been supplied to the Assessee along with the notices. Therefore, we are of the view that ends of justice would meet if we set aside both the impugned orders and restore these issues to the file of the Assessing Officer for re- adjudication. The Id. Assessing Officer would provide due opportunity of hearing.

7. In the result, all the appeals of the Assessee stand allowed for statistical purposes.

Order pronounced on 28.11.2024

Sd./-
(**KRINWANT SAHAY**)
Accountant Member

Sd./-
(**RAJPAL YADAV**)
Vice President

“आर.के.”

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