

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

BEFORE: SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER
AND SHRI PARESH M. JOSHI, JUDICIAL MEMBER,

आयकर अपील सं./ITA No. 640/CHD/2024

निर्धारण वर्ष / Assessment Year : 2021-22

The Thanesar Co-op Marketing cum Processing Society Ltd., Kurukshetra.	Vs	The ITO, Ward -1, Kurukshetra.
स्थायी लेखा सं./PAN /TAN No: AADAT5323K		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri B.M.Monga, Advocate and
Shri Rohit Kaura, Advocate

राजस्व की ओर से/ Revenue by : Smt. Kusum Bansal, CIT DR

तारीख/Date of Hearing : 09.12.2024

उदघोषणा की तारीख/Date of Pronouncement : 16.12.2024

VIRTUAL HEARING

आदेश/ORDER

PER PARESH M. JOSHI, JM

This is an appeal filed by the assessee under Section 253 of the Income Tax Act, 1961 as and by way of second appeal before this Tribunal. The assessee is aggrieved by the order bearing No.ITBA/NFAC/S/250/2024-25/1064010515(1) dated 09.04.2024 passed by Id. CIT(A) under Section 250 of the Income Tax Act, 1961 which is hereinafter referred to as the "impugned order". The

relevant assessment year is 2021-22 and the corresponding previous year period is from 01.04.2020 to 31.03.2021.

2. The assessee in Form 36 which is Form of Appeal to this Tribunal has raised following grounds of appeal against the impugned order :

1. That the order of Ld. CIT(A) is against (he law and facts of the case.

2. That the Learned CIT(A) has passed the order u/s 250 on 09.04.2024 without considering the documents, evidence, paperbooks and written submissions filed and uploaded by assessee appellant, on the Income Tax E-portal on 21.03-2024 and 23.03.2024 itself in appeal proceedings, and CIT(A) passed the order by wrongly holding that there is non-compliance of appeal on the part of assessee which is factually incorrect and in complete violation of Principles of Natural Justice.

3. That the Learned CIT(A) has grossly erred in not deciding the appeal on the merits of the case and is not justified in passing in limine, ex parte order in a hastily manner & not on merits & totally non speaking order and without considering Grounds of appeal and the complete compliance and paperbooks duly uploaded and submitted by assessee on 21.03.2024 and 23.03.2024 on the Income Tax E-portal in appeal proceedings.

4. That the Id. CIT(A) has erred in passing the exparte order by illegally upholding the exparte order of Ld. AO, confirming the addition of Rs.16,5 1,85,360/- on account of alleged bogus purchases which addition is against the facts and circumstances of the case.

5. That the ld. CIT(A) has erred in passing the exparte order by illegally upholding the exparte order of Ld- AO, confirming the addition of Rs.16,5 1,85,360/- on account of alleged bogus

purchases which addition is against the FCC facts and circumstances of the case.

6. That the ld. CIT(A) has grossly erred in passing the exparte order by illegally upholding the exparte order of ld. AO confirming the addition of Rs.16,51,85,360/- on account of alleged bogus purchases without considering that assessee is a cooperative society working on behalf of HAFED, NAFED etc. and all the purchases are genuine and legitimate duly supported by the documents and evidences as submitted by the assessee on 21.03.2024 and 23.03.2024 on the Income Tax E-portal in appeal proceedings.

7. That the Id. CTT (A) has erred in passing the exparte order by illegally upholding the rejection of duly audited books of accounts and confirming the adhoc GP rate of 8% by the l.d. AO without considering the paperbooks and submissions of the assessee appellant.

8. That the appellant craves leave to add or amend, die grounds of appeal before the appeal is finally heard or disposed off.

3. The order of assessment of ld. AO bears No. ITBA/AST/S/143(3)/2022-23/1048077459(1) and is dated 19.12.2022 which was passed under Section 143(3) r.w.s. 144B of the Income Tax Act, 1961 wherein total income of the assessee was computed as Rs.16,51,85,360/-. During the year under consideration the assessee is a Society and was engaged in sale and purchase of wheat, paddy, pesticide, sunflower and fertilizers. The case of the

Society was selected under CASS to examine the following issue :

i) Assessee has made substantial purchases from suppliers who are either non-filer(s) or have filed non-business ITR (ITR 1,2) or reflected a substantially lower turnover in ITR.

4. The notices under Section 143(2) and 142(1) were issued on five occasions but assessee never complied with it fully. Hence, above assessment order was passed under Section 144B of the Income Tax Act, 1961.

5. The assessee challenged the aforesaid order under Section 243A by filing first appeal before Id. CIT(A) who by impugned order has dismissed the appeal on the ground that from 03.08.2023 to 21.03.2024 in aggregate six notices were issued as and by way of opportunities to explain their case but of no avail. Hence, impugned order was passed exparte.

6. The hearing in the matter took place before this Tribunal on 09.12.2024 when ld. AR has placed on record of this Tribunal a brief preliminary synopsis basis which it was contended that on portal, all replies and documents were uploaded in support of their submissions on 21.03.2024 and on 23.03.2024 and relevant screen shots are placed on record. The ld. CIT(A) has wrongly recorded in impugned order in para 5.4.4 as follows :-

“5.5.4 From the perusal of above submission of the appellant it is observed that the appellant has not provided any information or details sought specifically vide notice dated 21.03.2024.”

7. Basis above, it was contended that impugned order is in violation of principle of natural justice, bad in law and illegal. It should be set aside by this Tribunal. Per contra, ld. DR has fairly agreed with the submissions made by the ld. AR.

8. In the premises, we are of the considered opinion that the impugned order is indeed bad in law and

illegal. It is passed in violation of the principles of natural justice. We, accordingly, set aside the impugned order and remand the case back to Id. CIT(A) to pass a fresh order on merits of the case which should be well reasoned and speaking. We direct assessee to co-operate with the Department.

9. In result, appeal of assessee is allowed as and by way of remand on denovo basis to pass a fresh order.

10. Appeal of assessee allowed for statistical purposes.

Order pronounced on 16.12.2024.

Sd/-

(KRINWANT SAHAY)
ACCOUNTANT MEMBER

Sd/-

(PARESH M. JOSHI)
JUDICIAL MEMBER

“Poonam”

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