

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

HEARING THROUGH: HYBRID MODE

**श्री ललित कुमार, न्यायिक सदस्य एवं श्री कृणवन्त सहाय, लेखा सदस्य**  
**BEFORE: SHRI. LALIET KUMAR, JM & SHRI. KRINWANT SAHAY, AM**

आयकर अपील सं. / ITA No. 704/Chd/ 2025

निर्धारण वर्ष / Assessment Year : 2018-19

SAEL LIMITED Faridkot Road Guruharsahai, Ferozepur, Punjab	बनाम	The DCIT Ludhiana
स्थायी लेखा सं. / PAN NO: AAEC52724A		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारिती की ओर से/ Assessee by : Shri Ashray Sarna, C.A

राजस्वकी ओर से/ Revenue by : Shri Rajat Kumar Kureel, CIT, DR

सुनवाई की तारीख/ Date of Hearing : 08/01/2026

उद्घोषणा की तारीख/ Date of Pronouncement : 14/01/2026

**आदेश/Order**

**PER LALIET KUMAR, J.M:**

This appeal filed by the assessee, M/s SAEL Limited is directed against the order dated 29.03.2025 passed by the Ld. Pr. CIT (Appeals)-5, Ludhiana for the assessment year 2018-19.

2. In the present appeal Assessee has raised the following grounds:

*That, the orders passed by the Ld. Commissioner of Income Tax (Appeal) vide orders dated 29.03.2025 is illegal, uncalled for and against the law & facts.*

*2. That, the Ld. Commissioner of Income Tax (Appeal) has sustained the additions merely on conjectures and surmises without any legal basis.*

*3. That, the Order passed by the Ld. Commissioner of Income Tax (Appeal) is Ex-parte order that has been passed without giving sufficient opportunity of being heard.*

*4. That, the grounds of appeal raised with Ld. Commissioner of Income Tax (Appeal) is as follows :-*

- That, assessing officer made wrong additions amounting Rs. 49,43,200.00 on account of CSR Expenses as the assessee had claimed the same in accordance with the provision of Income Tax Act. It may please be allowed.*

- That, assessing officer made wrong additions amounting Rs. 4,45,000.00 on account of donation as the assessee had claimed the same in accordance with the provision of Income Tax Act. It may please be allowed.*

- That, assessing officer made wrong additions amounting Rs. 2,68,805.00 on account of employee benefit as the assessee had claimed the*

same in accordance with the provision of Income Tax Act. It may please be allowed.

- That, assessing officer made wrong additions amounting Rs. 12,06,337.00 on account of leave encashment as the assessee had claimed the same in accordance with the provisions of Income Tax Act. It may please be allowed.

5. That, the Ld. Commissioner of Income Tax (Appeals) has disallowed the claim of brought forward loss amounting Rs 22,82,42,220.00 and reduced it to Rs.6,83,62,379.00 on the basis of prior year assessment i.e AY 2017-18 that included a protective addition amounting Rs 15,44,00,000.00

The CIT(A) failed to appreciate that the said protective addition, by its very nature, is not a conclusive determination of income and was only made to safeguard the revenue interest in an uncertain situation. Such a protective assessment cannot form the basis for denying legitimate carry forward and set off of business losses.

The CIT(A) further failed to appreciate that the substantive assessment, which is the primary and final determination of income, alone should guide the eligibility of brought forward losses, not a protective addition which is inherently tentative.

6. That, the Ld. Commissioner of Income Tax (Appeals) has just relied upon the findings of the Assessing Officer and dismissed the appeal.

7. The Assessee craves leave to argue on any other question of law or facts at the time of hearing of this appeal.

3. Briefly, the facts of the case are that the assessment for the year under consideration was completed by the Assessing Officer under section 143(3) of the Act vide order dated 23.07.2021, wherein various additions/disallowances were made, including disallowance of CSR expenditure, donations, employee benefit provisions and leave encashment. The Assessing Officer also restricted the set-off of brought-forward losses and unabsorbed depreciation. Consequently, the total income of the assessee was assessed at Rs. 5,75,53,800.

4. Aggrieved by the assessment order, the assessee preferred an appeal before the learned CIT(A). The delay in filing the appeal was condoned by the learned CIT(A) in view of the directions of the Hon'ble Supreme Court regarding limitation during the Covid-19 pandemic. However, the learned CIT(A) recorded that the appeal was fixed for hearing on fourteen occasions between 29.03.2022 and 26.03.2025, but the assessee failed to file written

submissions or supporting evidences and only sought adjournments. In the absence of effective prosecution, the learned CIT(A) disposed of the appeal ex-parte, confirming the additions made by the Assessing Officer both on account of non-prosecution as well as on merits on the basis of material available on record.

5. Feeling aggrieved the assessee preferred in appeal before the Tribunal.

6. Before us, the Ld. AR submitted that the additions sustained by the learned CIT(A) were not independent additions on merits but were made on a protective basis in the hands of the assessee in the preceding assessment year, with consequential impact in the year under consideration. It was submitted that the sustainability of the impugned additions is intrinsically linked with the outcome of the appellate proceedings relating to the earlier year.

6.1 The Ld. AR further submitted that substantive additions on the same issues were made in the hands of M/s Gobind Dham Renewable Energy Pvt. Ltd., which were carried in appeal before the Tribunal in ITA No. 281/Asr/2023. The Hon'ble ITAT, Amritsar Bench, vide order dated 04.01.2024, has deleted the substantive additions. It was contended that once the substantive additions have been deleted, the corresponding protective additions in the hands of the assessee cannot survive. It was submitted that the findings recorded by the Tribunal in the aforesaid case, as well as the assessment order of the preceding year, have a direct bearing on the adjudication of the present appeal.

6.2 It was further submitted that due to the limited time granted during the faceless appellate proceedings, the assessee could not place on record the order of the Tribunal dated 04.01.2024, which is a crucial piece of evidence. The Ld. AR, therefore, prayed for restoration of the matter to the file of the learned CIT(A) for fresh adjudication on merits.

7. Per contra, the Ld. Departmental Representative (DR) supported the impugned order. The Ld. DR submitted that it is an admitted position that the

additions were made on a protective basis in the hands of the assessee in the preceding assessment year. However, the assessee, for reasons best known to it, has not placed on record any material to show the status or outcome of the appellate proceedings relating to the earlier year.

7.1 The Ld. DR further submitted that the outcome of the appellate proceedings for the preceding year would have a direct and material impact on the adjudication of the present appeal and, therefore, the present proceedings cannot be disposed of merely on the basis of the order passed by the Tribunal in the case of M/s Gobind Dham Renewable Energy Pvt. Ltd. (supra) in ITA No. 281/Asr/2023, without examining the assessee's own case. It was accordingly prayed that the appeal of the assessee be dismissed.

8. We have heard the rival submissions and perused the material available on record. It is not in dispute that the additions in question were made on a protective basis in the hands of the assessee in the preceding assessment year. It is also an admitted position that the assessee has not placed before us the records or outcome of the appellate proceedings relating to the said year.

8.1 At the same time, it is also evident that during the pendency of the appellate proceedings, the Tribunal in a connected case, namely M/s Gobind Dham Renewable Energy Pvt. Ltd., vide order dated 04.01.2024 passed in ITA No. 281/Asr/2023, has deleted the substantive additions on the same issues. The said development, in our considered view, constitutes a relevant and material circumstance, which cannot be ignored while adjudicating the present appeal.

8.2 We find force in the contention of the Ld. DR that the present appeal cannot be decided solely on the basis of the adjudication made in the case of Gobind Dham Renewable Energy Pvt. Ltd. (supra) without examining the outcome of the appellate proceedings in the assessee's own case for the preceding year. These aspects require factual verification and proper examination at the level of the first appellate authority.

8.3 At the same time, considering the nature of the issues involved, the subsequent judicial developments and the principles of natural justice, we are of the considered view that the matter deserves to be adjudicated afresh on merits. Accordingly, in the interest of justice, we set aside the impugned order passed by the learned CIT(A) and restore the entire matter to his file for de novo adjudication, in accordance with law. The assessee is directed to place all relevant records and cooperate fully in the proceedings and shall not seek unwarranted adjournments.

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

Order pronounced in the open Court on 14/01/2026

Sd/-

**कृणवन्त सहाय**  
(KRINWANT SAHAY)  
लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-

**ललित कुमार**  
(LALIET KUMAR)  
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,  
सहायकपंजीकार/ Assistant Registrar