

**आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ “एकल” चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH
BENCH “SMC” CHANDIGARH**

**श्री संजय गर्ग, न्यायिक सदस्य
BEFORE: SH. SANJAY GARG, JUDICIAL MEMBER**

आयकर अपील सं./ ITA Nos.451 & 452/CHD/2025

निर्धारण वर्ष / Assessment Year : 2013-14

Shri Rohit Jain, Shop No. 50, BD Complex, Mandi Gobindgarh.	बनाम	The ITO, Ward – 1, Mandi Gobindgarh.
स्थायी लेखा सं./PAN NO: ADVPJ2549R		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Sudhir Sehgal, Advocate

राजस्व की ओर से/ Revenue by : Dr. Ranjit Kaur, Addl. CIT, Sr.DR

सुनवाई की तारीख/Date of Hearing : 06.11.2025

उद्घोषणा की तारीख/Date of Pronouncement : 07.11.2025

HYBRID HEARING

आदेश/ORDER

The present are two appeals by the assessee. ITA No.451/CHD/2025 preferred by the assessee is against the order dated 08.02.2019 of ld. Commissioner of Income Tax (Appeals) [in short ‘the CIT (Appeals)] relating to the quantum additions, whereas, ITA No.452/CHD/2025 is against the order dated 08.05.2019 of ld. Commissioner of Income Tax (Appeals) [in short ‘the CIT (Appeals)] against the levy of

penalty u/s 271(1)(c) of the Income Tax Act, 1961 (in short 'the Act' pertaining to 2013-14 assessment year.

2. As requested, first we take the assessee's appeal in ITA 451/CHD/2025.

ITA No.451/CHD/2025

3. There is a delay in filing the appeal remains of 1350 days. A separate application for condonation of delay has been filed, wherein, it has been pleaded that the assessee was a partner in M/s Euro Steels. That the said firm underwent huge losses resulting into closure of the business of the firm in financial year 2015. Since the business premises was closed down, therefore, any notice of hearing issued by the ld.CIT (Appeals) did not come to the notice of the assessee. Even during the period, the father of the assessee also died after suffering from prolonged illness. Thereafter, the Covid period had also started. The assessee did not receive any notice of hearing. The assessee was not aware of the proceedings before the ld.CIT (Appeals). Therefore, assessee was totally unaware of the proceedings before the CIT (Appeals) as well as the passing of the impugned order. Due to the long period passed, even the ld. counsel for the assessee did not inform him about any pending proceedings before the CIT (Appeals). It was only when the assessee received notice

of recovery that the assessee came to know about the passing of the impugned order and the assessee immediately filed the present appeal.

3.1 It has been further submitted that assessee has a fair case on merits and there was no intention or even negligence on the part of the assessee in not filing the appeal on time but due to the circumstances beyond the control of the assessee.

4. After considering the rival contentions and assessee's application for condonation of delay supported with the affidavit, the delay in filing the present appeal is hereby condoned.

5. The assessee in this appeal has contested the two additions made by the AO. Firstly, of Rs.8,20,000/- on account of denial of claim of carry forward loss and further, the addition of Rs.12,74,649/- on account of cash deposits in the bank account of the assessee.

5.1 So far as the addition of Rs.8,20,000/- is concerned, the ld. counsel for the assessee has stated at bar that he does not press the ground contesting the aforesaid addition. The ld. Counsel has submitted that infact the said addition has been made on account of wrong claim of the carry forward loss. He explained that the said carry forward loss was infact already

claimed by the assessee in the earlier assessment year, however, the tax consultant of the assessee under misimpression and out of inadvertent mistake, again claimed the same in the return of income for the year under consideration. The ld. Counsel has submitted that this was a bonafide mistake on the part of his counsel and that the assessee does not dispute the aforesaid addition.

6. So far as the addition of Rs.12,74,649/- is concerned, the ld. AR of the assessee has submitted that the aforesaid amount was deposited in the bank account of the assessee after withdrawal from the capital account of the assessee with his firm M/s Euro Steels. The ld. Counsel, in this respect, has relied upon page 5 of the Paper Book which is the copy of the capital account of the assessee showing the amounts and the dates of withdrawal out of the capital account of the assessee with the firm. The ld. Counsel has also relied upon page 24 of the Paper Book which is copy of the partner's capital account showing the aforesaid withdrawal of the amount out of the capital account of the firm. The ld. Counsel has submitted that the accounts of the firm were duly audited and the aforesaid amount of Rs.12,74,649/- was withdrawn out of the capital account and redeposited in the individual bank account of the assessee.

7. The ld. DR could not rebut the aforesaid factual aspects on the file.

8. I, therefore, do not find any justification on the part of lower authorities in making/confirming the impugned addition and the same is, accordingly, ordered to be deleted.

9. In the result, this appeal of the assessee stands partly allowed.

ITA NO. 452/CHD/2025

10. This appeal is also time barred by 1258 days. In view of my observations given in ITA No.451/CHD/2025, the delay in filing the present appeal is hereby condoned.

11. The assessee in this appeal has agitated the levy of penalty u/s 271(1)(c) of the Income Tax Act, 1961 relating to the impugned additions of Rs.8,20,000/- and Rs.12,74,000/- as discussed above in assessee's appeal in ITA No.451/CHD/2025.

12. In view of my findings given above, the addition of Rs.12,74,000/- has been ordered to be deleted, hence, the penalty to that extent has no legs to stand and is, accordingly, ordered to be deleted.

13. So far as the penalty levied in respect of addition made of Rs.8,20,000/- is concerned, the ld. Counsel has duly submitted that the aforesaid amount was claimed as carry forward loss out of inadvertent and bonafide mistake. From the perusal of record, I find merit in the aforesaid contention of the assessee. It was not a case of any intentional claim of bogus loss, neither it was any case of intentional concealment of income or furnishing of inaccurate particulars of income. In my view, the assessee should not be punished for the bonafide mistake made by his tax consultant. In view of this, the penalty levied in this case u/s 271(1)(c) of the Act is ordered to be deleted.

14. This appeal of the assessee stands allowed.

15. In the result, ITA No.451/CHD/2025 is partly allowed and ITA No.452/CHD/2025 stands allowed.

Order pronounced on 07th November, 2025.

Sd/-

(संजय गर्ग)

(SANJAY GARG)

न्यायिक सदस्य/ 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. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT,
CHANDIGARH
6. गार्ड फाईल/ Guard File

Assistant Registrar