

IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH: KOLKATA
[Before Shri Mahavir Singh, JM & Shri M. Balaganesh, AM]

I.T.A Nos. 691 & 692/Kol/2013

Assessment Year: 2008-09

&

I.T.A Nos. 693/Kol/2013

Assessment Year: 2009-10

Santosh Kumar Gupta
(PAN:AFFPG2130M)
(Appellant)

Vs. Income-tax Officer, Ward-29(4), Kolkata

(Respondent)

Date of hearing: 23.11.2015

Date of pronouncement: 23.11.2015

For the Appellant: Shri Pankaj Baid, ACA

For the Respondent: N o n e

ORDER

Per Shri Mahavir Singh, JM:

All these three appeals by assessee are arising out of separate orders of CIT(A)-XVI, Kolkata in Appeal Nos.30/CIT(A)-XVI/Wd-29(4)/Kol/10-11, 18 & 67/CIT(A)-XVI/Wd-29(4)/Kol/11-12 and all dated 31.01.2013. Assessments were framed by ITO, Ward-29(4), Kolkata u/s. 143(3) of the Income-tax Act, 1961 (hereinafter referred to as the “Act”) for AYs 2008-09 vide its order dated 10.12.2010 and u/s. 144 of the Act for AY 2009-10 vide its order dated 25.11.2011.

2. None is present for revenue. Revenue has filed a petition for adjournment asking for adjournment in twenty matters out of twenty three totally fixed in the cause list. The reason given by revenue in its petition dated 23.11.2015 reads as under:

“I am directed to request to the Hon’ble “C” Bench, ITAT, Kolkata that Shri Rajat Kumar Kureel, JCIT, Sr. (DR) will not be able to represent the above mentioned cases since he is going on a visit to Burdwan for official work on 23rd November, 2015.

Accordingly, I am directed to request that the case may kindly be adjourned for a later date as per the convenience of the Hon’ble Bench.”

We find that the revenue is seeking adjournment on frivolous ground and this is a regular feature. Hence, without giving adjournment and since appeal is pending since 2013, we proceeded to decide it after hearing Ld. AR.

3. First we take up ITA Nos. 691 and 693/Kol/2013. Common issue is involved in these two appeals of assessee, except variance in amount, i.e. against the order of CIT(A)

upholding the addition made by AO treating cheques and cash deposited into Axis Bank as income from undisclosed sources. For this, assessee has raised following ground no. 2:

“2. That the Ld. CIT(A) ought to have deleted the addition of Rs.48,72,460/- (for ITA 691 of 2013) and Rs.48,01,902/- (for ITA 693 of 2013) made by the learned Assessing Officer treating cheques and cash deposited into Axis Bank as income from undisclosed sources.”

4. We have heard Ld. AR of the assessee and have gone through the order of CIT(A) and seen that the CIT(A) passed the order ex parte and did not adjudicate ground in his appellate order. We also find that the orders of CIT(A) are cryptic one and non-speaking. There is no iota of merits discussed in the orders by CIT(A). The duty of the CIT(A) is to pass a speaking order after controverting all the facts given by assessee and decide the issue with reasons. Hence, we quash the order of CIT(A) and remit the appeals back to his file for fresh adjudication with the above direction. We order accordingly. The appeals of assessee are allowed for statistical purposes.

5. Now, we are coming to ITA No. 692/Kol/2013. In this appeal of assessee the issue is against the order of CIT(A) in upholding the penalty u/s. 271(1)(c) of the Act. For this, assessee has raised following ground no.1:

“1. That the learned CIT(A) ought to have deleted the penalty u/s. 271(1)(c) of the Income Tax Act, 1961 of Rs.16,38,963/- being @ 100% of Tax made by the ld. AO.”

6. We have heard Ld. AR of the assessee and have gone through the order of CIT(A) and seen that the CIT(A) passed the order ex parte and did not adjudicate ground in his appellate order. Since we have already set aside the quantum appeal, let this penalty appeal also be set aside to the file of CIT(A) to decide afresh after deciding the quantum appeal. Needless to say, assessee should be allowed reasonable opportunity of being heard. We order accordingly. The appeal of assessee is allowed for statistical purposes.

7. In the result, all the appeals of assessee are allowed for statistical purposes.

8. Order is pronounced in the open court.

Sd/-
(M. Balaganesh)
Accountant Member

Sd/-
(Mahavir Singh)
Judicial Member

Dated : 23rd November, 2015

Copy of the order forwarded to:

1. APPELLANT – Shri Santosh Kumar Gupta, 39/5B, Gopal Nagar Road, Kolkata-700 027.
2. Respondent – ITO, Ward-29(4), Kolkata.
3. The CIT(A), Kolkata
4. CIT Kolkata
5. DR, Kolkata Benches, Kolkata

/True Copy,

By order,

Asstt. Registrar.