

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'B' BENCH,
KOLKATA**

Before **Shri Waseem Ahmed, Accountant Member**, and
Shri S.S.Viswanethra Ravi, Judicial Member

I.T.A. No. 895/KOL/ 2013
A.Y: 2006-07

M/s. Natraj Pvt. Ltd
PAN:AAACN 8670Q
(Appellant)

Vs.

Dy. Commissioner of
Income-tax, Cir-1, Kolkata
(Respondent)

Appearances by:

Shri Anil Kochar, Advocate, Id.AR for the assessee
Shri Md. Ghayas Uddin, JCIT, Sr. D.R for the revenue

Date of hearing : 27-09-2016

Date of pronouncement : 28 -09-2016

O R D E R

Shri S.S. Viswanethra Ravi, JM :-

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax(Appeals), XXIV, Kolkata dated 25-02-2013 for the assessment year 2006-07.

2. At the time of hearing before us the Id.AR of the assessee has submitted that inadvertently by a mistake the short term capital gain of Rs.12,26,876/- and Rs.3,00,000/- were wrongly shown in the assessee's return filed on 30-11-06. Accordingly, the assessee paid the taxes

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thereon as estimated by the AO in his order u/s. 143(3) of the Act dated 12-02-2008 for the assessment year under consideration. Before the CIT-A the assessee contended that the workings as made by the AO is relating to the said amounts of Rs.12,26,876/- and Rs.3,00,000/-, which are incorrect being the balances of assessee's bank account. The same amount have been inadvertently entered by the assessee under the head 'short term capital gain'. In support of his contention, the Id.AR of the assessee before the CIT-A filed a bank statement issued by ICICI Bank to show that this amount being balance of saving bank account. The Id.AR of the assessee further submitted before the CIT-A that since the assessee did not offer any explanation regarding the source of such amount, which is lying in the bank account, the CIT-A has confirmed this action of the AO on the issue of short term capital gain. Thus, the Id.AR of the assessee before us submits that in view of such mistake, which has been inadvertently entered as short term capital gain the impugned matter may be remanded to the file of the AO for further verification at his end.

3. In reply, the Ld.DR appearing on behalf of the revenue has objected to the above proposition of the Id.AR of assessee. He further submitted before us that the CIT-A has given ample opportunity to explain the source of income relating to bank balance for a period of 3 years and

the assessee has failed to offer any explanation in this regard. In support of his contention, he relied on the impugned orders of the authorities below.

4. Heard rival submissions and perused the material available on record including the paper book filed by the assessee before us. We find that before the CIT-A the assessee submitted the amount of Rs.12,26,876/- by a mistake entered in his books as short term capital gain. Before us the assessee has also drew our attention to pages of the paper book consisting of 4 items, wherein the bank statement relating to assessee is clearly shown as on 11-02-2005 an amount standing balance of Rs.12,33,455.72. Therefore, we are of the view that the issue needs further examination and verification by the AO. With regard to the addition of Rs. 3 lacs, the Id.AR did not advance any argument. Therefore, we are confirming the same. However, for the addition of Rs.12,26,876/- we are inclined, in the interest of justice to remand back the file to the AO for further verification. The assessee is directed to co-operate with the AO in assessment proceedings without seeking any further adjournment and to produce requisite evidence, if any, relating to the submissions of the assessee. Accordingly, the AO is directed to pass an order in accordance with law.

5. In the result, the appeal of assessee is allowed for statistical purpose.

ORDER PRONOUNCED IN OPEN COURT ON 28/09/2016

Sd/-
WASEEM AHMED
ACCOUNTANT MEMBER

Sd/-
S.S.VISWANETHRA RAVI
JUDICIAL MEMBER

Date 28/09/2016

Copy of the order forwarded to:

1. The Appellant/Assessee : M/s. Natraj Pvt. Ltd C/o S.L Kochar, Advocate, 86, Canning Street, Kol-1.
2. The Respondent/Department- Dy. Commissioner of Income Tax Circle-1, Aaykar Bhawan, P-7 Chowringee Square, Kol-69.
3. /The CIT(A)
4. The CIT
5. DR, Kolkata Bench
6. Guard file.

True Copy,

By order,

Asstt Registrar

** PRADIP SPS

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