

IN THE INCOME TAX APPELLATE TRIBUNAL "D", BENCH KOLKATA
BEFORE SHRI A. T. VARKEY, JM & DR. A.L.SAINI, AM

आयकरअपीलसं./ITA No.276/Kol/2017

(निर्धारणवर्ष / Assessment Year : 2011-2012)

Shri Ram Swaroop Bajaj, 2, Lal Bazar Street, Todi Chambers, Room No. 306, Kolkata-700001	Vs.	ITO, Ward 36(1), Kolkata
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. : AEFPB 2300 D		
(अपीलार्थी/Assessee)	..	(प्रत्यर्थी / Respondent)

निर्धारितीकीओरसे /Assessee by : Shri Ankit Jalan, AR

राजस्वकीओरसे /Revenue by : Shri Nicholas Murmu, JCIT

सुनवाईकीतारीख/ Date of Hearing : 19/06/2017

घोषणाकीतारीख/Date of Pronouncement 07/ 07/2017.

देश / ORDER

Per Dr.Arjun Lal Saini, AM:

The captioned appeal filed by the Assessee, pertaining to assessment year 2011-12, is directed against the order passed by the Id. Commissioner of Income Tax(Appeals)-10, Kolkata, in Appeal No. 287 CIT(A)-10/Wd-36 (1)/14-15/ Kol dated 30.11.2016, which in turn arises out of an order passed by the AO u/s 143(3) of the Income Tax Act 1961, (hereinafter referred to as the 'Act'), dated 14.03.2014.

2. Brief facts of the case qua the assessee are that the assessee filed its return of income for assessment year 2011-12 on 04.09.2012 declaring total income at Rs. 1,81,730/-. Assessee's case was selected for scrutiny u/s 143(3) of the Act and the AO has completed the assessment by making addition on account of interest at Rs. 1,68,000/- and unexplained cash credit u/s 68 of Rs. 7,50,000/-.

3. Dissatisfied with the order of the Assessing Officer, the assessee filed an appeal before the Commissioner of Income-tax (Appeal) who has confirmed the order passed by the Assessing Officer.

4. At the outset, the Ld. Counsel for the assessee submitted that the Ld. CIT(A) did not give opportunity to the assessee to reply the remand report which was taken by the Ld. CIT(A) from the Assessing Officer. The Ld. Counsel submitted that the assessee filed similar documents for assessment year 2008-09, 2009-10 and 2010-11 before the Ld. CIT(A). The Assessee could not produce certain documents before the Assessing Officer for the assessment year under consideration and the said documents, are now available with him and will be submitted by him before the Ld. CIT(A). Further, the assessee has produced certain documents and evidences before the Commissioner of Income-tax (Appeal) and Ld. Commissioner of Income-tax (Appeal) sent these documents to the Assessing Officer to make the remand report. After getting the remand report the assessee wanted to submit his rejoinder but the Ld. CIT(A) did not give any opportunity to the assessee to submit the rejoinder and reply to the remand report. Therefore, the Ld. Counsel for the assessee requested the Bench to send the entire matter back to the file of the Ld. CIT(A) to decide the appeal of the assessee on merits. The Ld. DR for the Revenue did not controvert the proposal made by the Ld. Counsel for the assessee to send the matter back to the file of the Commissioner of Income-tax (Appeal) to decide the appeal afresh after giving adequate opportunity to the assessee for hearing.

5. Considering the factual position explained above, we are of the view that in the interest of justice, this issue requires afresh examination at the end of the Ld. CIT(A), as the assessee did not get an opportunity to reply the remand report of the assessing officer. Therefore, we remand the matter back to the file of the Ld. CIT(A) to adjudicate the assessee's appeal afresh. We also direct the assessee to appear before the Ld. CIT(A) on 07.08.2017 and for that, no separate notice will be issued to the assessee. This is to ensure that the assessee should participate in the

appellate proceedings and this way, we allow this appeal for statistical purposes.

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

Order pronounced in the open court on this 07/ 07/2017.

Sd/-

Sd/-

(A.T. Varkey)

(DR. A.L.SAINI)

न्यायिक सदस्य / JUDICIAL MEMBER

लेखा सदस्य / ACCOUNTANT MEMBER

कोलकाता/Kolkata; दिनांक Dated 07/ 07/2017.

SB, Sr. PS.

देशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Assessee-Ram Swaroop Bajaj
2. प्रत्यर्थी/ The Respondent.- ITO, Ward-36(1), Kolkata
3. आयकरआयुक्त(अपील) / The CIT(A), Kolkata.
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, कोलकाता/ DR, ITAT, Kolkata
6. गार्डफाईल / Guard file.

सत्यापितप्रति //True Copy//

देशानुसार/BY ORDER,

Senior Private Secretary
Head of Office/D.D.O.,
I.T.A.T., Kolkata Benches,
Kolkata.