

IN THE INCOME TAX APPELLATE TRIBUNAL, BENCH 'SMC' KOLKATA

[Before Hon'ble Shri J.Sudhakar Reddy, AM]

ITA Nos.1423&1424//Kol/2016
Assessment Years : **2002-03 & 2004-05**Anushree Finlease (P) Ltd.
Kolkata
(PAN: AABCA 5576 F)
(Appellant)

versus-

I.T.O., Ward-1(4)
Kolkata

(Respondent)

For the Appellant: Shri Subash Agarwal, Advocate
For the Respondent: Shri Saurav Kumar, Addl. CIT

Date of Hearing : 28.07.2017.

Date of Pronouncement : 31.10.2017.

ORDER

Both these appeals are filed by the assessee directed against the orders of the Commissioner of Income Tax-(A)-I, Kolkata relating to A.Y. 2002-03 and 2004-05 on the following grounds :-

ITA No.1423/Kol/2016 A.Y.2002-03

"1. For that the Ld. Commissioner of Income Tax (A)-I/Kolkata has erred in law as well as on facts of the case in confirming the protective aspect of the assessment on the ground which is not correct as the appellant on this point has made its submission.

2. For that the Ld. Commissioner of Income Tax (A)-I,Kol has erred in law as well as on facts of the case in confirming the addition of Rs. 10,820.00 being the amount of alleged commission said to be earned on the grounds which are not correct,

3. For that the Ld. Commissioner of Income Tax (A)-I Kolkata has erred in law as well as on facts of the case in confirming the addition of Rs. 40,000.00 being the amount of cash deposits into Bank on the grounds which are not correct.

4. For that the appellant craves leave to adduce, modify and/or alter the grounds at or before hearing."

ITA No.1424/Kol/2016 A.Y.2004-05

- “1. For that the Ld. Commissioner of Income Tax (A)-I, Kolkata has erred in law as well as on facts of the case in confirming the assessment made u/s.143(3)/144 of the I.T.Act 1961 on the grounds which are not correct.*
- 2. For that the Ld. Commissioner of Income Tax (A)-I, Kol has erred in law as well as on facts of the case in confirming the Jurisdiction of the Ld. Assessing Officer in passing order on the grounds which are not correct.*
- 3. For that the Ld. Commissioner of Income Tax (A)-I, Kolkata has erred in law as well as on facts of the case in confirming the addition of Rs. 47,000.00 being the amount - alleged commission said to be earned on the grounds which are not correct.*
- 4. For that the Commissioner of Income Tax (A)-I, Kol has erred in law as well as on facts of the in confirming the addition of Rs. 16,20,000.00 being the alleged cash deposit into Bank on the grounds which are not correct.*
- 5. For that the Ld. Commissioner of Income Tax (A)-I, Kol has erred in facts of the case in confirming the protective aspect of the asses which are not correct as the appellatant has made its submission.*
- 6. For that the appellatant craves leave to adduce, modify and/ or alter the grounds at or before hearing.*

2. When the matter came up before this Bench on 11.07.2017 the following order was passed.

“It is indeed that the addition which is in dispute in both the appeals has been made on protective basis. Both the parties are directed to find out as to under which case substantive addition has been made and what is the present status of the said case”

The case was adjourned to 28.07.2017.

3. The Id. DR submitted that he could not collect the required information. The Id. AR submits that he has no information as he is handling this case only. In case of protective assessment, the same income would have been added in the assessment of the assessee in whose case substantive addition has been made. It is well settled that the same income cannot be brought to tax in the hands of two assesseees. This would be double taxation. Under the Circumstances, I am of the considered opinion that these additions should be deleted on the ground that the same amount have been added in the hands of two assesseees. As we are not being given the required information

despite specific direction, I deem it fit to set aside these cases to the file of the AO for fresh adjudication.

4. In the result both the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the Court on 31.10.2017.

Sd/-
[J.Sudhakar Reddy]
Accountant Member

Dated : 31.10.2017.

[RG Sr.PS]

Copy of the order forwarded to:

1. Anushree Finlease (P)Ltd., P-27, Princep Street, 3rd Floor, Kolkata-700072.
2. I.T.O., Ward-1(4), Kolkata.
3. C.I.T.(A)- 1, Kolkata 4. C.I.T-1, Kolkata
5. CIT(DR), Kolkata Benches, Kolkata.

True Copy

By order,

Senior Private Secretary
Head of Office/D.D.O, ITAT Kolkata Benches