

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH : KOLKATA

[Before Hon'ble Shri S.S. Godara, JM]

I.T.A No. 1279/Kol/2018

Assessment Year : 2012-13

Manoj Kumar Agarwal
[PAN: AEYPA 8518 F]
(Appellant)

-vs-

ITO, Ward-46(2), Kolkata
(Respondent)

For the Appellant : None

For the Respondent : Md. Gyas Uddin, Addl. CIT

Date of Hearing : 13.09.2018

Date of Pronouncement : 28.09.2018

ORDER

1. This assessee's appeal for assessment year 2012-13 arises against the CIT(A)-14, Kolkata's ex parte order dated 31.10.2017 passed in case no. 76/CIT(A)-14/Wd-46(1)/2015-16 upholding the Assessing Officer's action adding sundry debtors amount of Rs. 2lacs allegedly without disputing the sales, undisclosed income on contractual payment received of Rs. 4,52,000/- and interest on deposits amounting to Rs. 20,248/-; respectively in assessment order dated 13.03.2015 involving proceedings u/s 143(3) of the Act.

2. I notice at the outset that the instant appeal suffers from delay of 143 days in filing. The assessee has filed a solemnly attested affidavit dated 11.06.2018 elaborating all reasons thereof. Learned Departmental Representative is fair enough in not disputing correctness thereof. I thus condone the delay of 143 days in filing to be neither

intentional nor deliberate but attributable to communication gap between the assessee and his auditor. The case is now taken up for adjudication.

3. Case file suggests that the CIT(A) has passed his lower appellate order ex parte in affirming all the three disallowances /additions. He issued two notices of hearing dated 02.08.2017 and 28.08.2017. The assessee did not appear . This made him to affirm all the three heads disallowance / addition without even considering the relevant details in the light of section 250(6) of the Act requiring point of determination and a detailed adjudication. I therefore restore the instant appeal back to the CIT(A) for fresh adjudication as per law after affording adequate opportunity of hearing to the assessee.

4. This assessee's appeal is accepted for statistical purposes.

Order pronounced in the Court on 28.09.2018

Sd/-

[S.S.Godara]
Judicial Member

Dated : 28.09.2018

SB, Sr. PS

Copy of the order forwarded to:

1. Manoj Kumar Agarwal, 19, Guha Road, Ghusuri, Howrah-711107
2. ITO, Ward-46(2), 3, Govt. Place (W), Kolkata-700001
- 3..C.I.T(A).- 4. C.I.T.- Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By Order

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