

आयकर अपीलिय अधीकरण, न्यायपीठ – “B” कोलकाता,
IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH: KOLKATA
 (समक्ष) श्री ऐ. टी. वर्की, न्यायीक सदस्य एवं डॉ. अर्जुन लाल सैनी, लेखा सदस्य)
 [Before Shri A. T. Varkey, JM & Dr. A. L. Saini, AM]

I.T.A. No. 835/Kol/2017
Assessment Year: 2012-13

M/s. Kalash Mercantile Pvt. Ltd. (PAN: AABCK1537C)	Vs.	Deputy Commissioner of Income-tax, Circle-4(1), Kolkata.
Appellant		Respondent

Date of Hearing	02.01.2019
Date of Pronouncement	09.01.2019
For the Appellant	Shri Ashish Rustogi, FCA
For the Respondent	Shri Satyajit Mondal, Addl. CIT, Sr. DR.

ORDER

Per Shri A.T.Varkey, JM

This appeal preferred by the assessee is against the order of the Ld. CIT(A)-2, Kolkata dated 02.02.2017 for AY 2012-13.

2. At the outset itself, the Ld. DR for the Revenue brought to our notice that the authorities below i.e. AO/Ld. CIT(A) has not granted/allowed the claim of assessee for expenditure aggregating to Rs.82,38,231/- incurred on transfer of capital asset because assessee did not produce any documents to substantiate the genuineness of the services purported to have been rendered by the four persons/entities for claiming the expenditure in respect to transfer of capital asset. We note that the Ld. AR before us has filed two sets of paper book, 1st paper book comprises of 38 pages which was filed on 01.11.2018 and another supplementary paper book consists of 19 pages which was filed on 11.12.2018. A perusal of the same, we note that there is no certificate as per rules to authenticate that these documents placed in both paper books were filed before the AO/Ld. CIT(A). We note that

the Ld. DR is in possession of the assessment records. After going through the assessment records, the Ld. DR pointed out that the assessee did not produce any documents which are being produced before us by filing these two sets of paper books. The said facts could not be controverted by the Ld. AR. In such a scenario, in the interest of justice and fair play, we are inclined to set aside the order of the Ld. CIT(A) and remand the matter back to the file of AO for fresh adjudication of the claim of expenses aggregating to Rs.82,38,231/- as claimed by the assessee to have incurred on transfer of capital asset. The assessee is at liberty to produce all documents before the AO to substantiate its claim and the AO to pass an order after hearing the assessee in accordance to law. Appeal assessee is allowed for statistical purposes.

3. In the result, appeal of assessee is allowed for statistical purposes.

Order is pronounced in the open court on 9th January, 2019.

Sd/- (Dr. A. L. Saini)
Accountant Member

Sd/-(A. T. Varkey)
Judicial Member

Dated: 9th January, 2019.

Jd.(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – M/s. Kalash Mercantile Pvt. Ltd., 1, Shakespeare Sarani, A.C. Market, 6th floor, Room No. 6C, Kolkata-700 071.
2. Respondent - DCIT, Circle-4(1), Kolkata
3. CIT(A)-2, Kolkata (sent through e-mail)
4. CIT , Kolkata.
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

/True Copy,

By order,

Assistant Registrar