

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

Before **Shri S.S, Godara, Judicial Member**

<b>ITA No.524/Kol/2018</b> Assessment Year:2006-07
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Dipak Kumar Mondal, Flat NO.L/8/4, 2, Dr. Deodhar Rahaman Road, Kolkata-700033 <b>[PAN No.AERPM 7108 J]</b>	<u>बनाम/</u> <b>V/s.</b>	Income Tax Officer, Ward-55(3),54/1, Rafi Ahmed Kidwai Road, Kolkata-16
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	Shri Soumitra Choudhury, Advocate
प्रत्यर्थी की ओर से/By Respondent	Shri C.J. Singh, JCIT-SR-DR
सुनवाई की तारीख/Date of Hearing	06-03-2019
घोषणा की तारीख/Date of Pronouncement	08-05-2019

**आदेश /O R D E R**

This assessee's appeal for assessment year 2006-07 arises against the Commissioner of Income-tax (Appeals)-21, Kolkata's order dated 06.04.2016 passed in case No.1146/ITO,W-22(3)/CIT(A)-21/Kol/14-15, involving proceedings u/s. 143(3) of the Income Tax Act, 1961; in short 'the Act'.

Heard both the parties. Case file perused.

2. It transpires at the outset that assessee's instant appeal suffers from 590 days delay in filing. Learned counsel invite my attention to the assessee's condonation affidavit making it clear that he had received the CIT(A)'s order under challenge dated 08.04.2016 only on 02.03.2018. This clinching averment has gone undisputed from the Revenue side. I therefore condone the impugned

595 days delay in filing of instant appeal as neither intentional nor deliberate but due to circumstances beyond assessee's control. The case is now taken up for adjudication on merits.

3. Learned counsel does not press for assessee's first substantive ground challenging correctness of addition amounting to ₹55,683/- on account of earnings from EEDF the same is declined as not pressed.

4. Next comes assessee's second substantive ground seeking to delete the alleged addition of undisclosed investment amounting to ₹14 lac in UTI Mutual Fund. I notice during the course of hearing that the assessee has made the impugned investment in mutual fund from his bank account only in four installments involving sums of ₹ 3 lac each on three occasions and ₹5 lac on 17.02.2006, 20.02.2006, 06.10.2005 and 25.08.2005; respectively. The assessee's bank statements as well as balance-sheet and profit and loss account form part of record to this effect. I therefore conclude in these facts that both lower authorities have erred in treating the impugned investment in UTI mutual fund to the tune of ₹14 lac as unexplained in course of assessment and upheld in the lower appellate proceedings. The same is directed to be deleted.

5. Lastly comes the third issue of disallowance of professional expenses amounting to ₹4,75,729/- @ 50% of the total claim amounting to ₹9,51,458/- both the lower authorities hold that assessee could not file supportive evidence to this effect. They have disallowed 50% of the assessee's claim on account of assessee's failure in filing the relevant details. I notice that neither the Assessing Officer nor the CIT(A) have drawn any comparative chart of the impugned expenditure in preceding as well as succeeding assessment year. The fact also remain is that assessee has not proved his impugned claim by filing all supportive details. I therefore deem it appropriate in this peculiar facts and

circumstances that lump sum disallowance of ₹2.50 lac would meet the ends of justice with a rider that same shall not be treated as precedent in any other assessment year. The assessee gets relief to the tune of ₹2,25,729/-. The third substantive ground is treated as partly accepted.

6. This assessee's appeal partly allowed in above terms.

Order pronounced in open court on 08/05/2019

Sd/-  
(S.S. Godara)  
Judicial Member

Kolkata,  
\*Dkp/Sr.PS

दिनांक:- 08/05/2019 कोलकाता

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. अपीलार्थी/Appellant-Shri Dipak Kr. Mondal, Flat No.L/8/4, 2, Dr. Deodhar Rahaman Road, Kolkata-33
2. प्रत्यर्थी/Respondent-ITO ward-55(3), 54/1, Rafi Ahmed Kidwai Road, Kolkata-16
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
कोलकाता ।