

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH : KOLKATA

[Before Hon’ble Shri S.S. Godara, JM]

I.T. A No. 1501/Kol/2018 A.Y 2013-14

Smt. Papia Kar
PAN: AUSPK7504P
(Appellant)

V/s. I.T.O Ward 35(1), Kolkata
(Respondent)

For the Appellant : None
For the Respondent : Shri C.J. Singh, JCIT, ld.DR

Date of Hearing : 07-03-2019
Date of Pronouncement: 15 -05-2019

ORDER

1. This Assessee’s appeal for assessment year 2013-14 arises against the CIT(A), 10, Kolkata’s order dated 16-03-2018 passed in case no. 268/CIT(A)-10/W-35(1)/2013-14/2016-17/Kol involving proceedings u/s 143(3)/264 of the I.T Act, 1961 (in short ‘Act’).

Heard the ld. Departmental Representative. Case file perused.

2. It is noticed that at the outset, the Assessee’s instant appeal suffers from 30 days delay in filing the appeal attributable to medical reasons. The Revenue is fair enough in not disputing the correctness thereof during the course of hearing. I therefore hold the impugned delay neither in intentional nor circumstantial beyond assessee’s control.

3. Coming to merits, I noticed that the assessee has raised four substantive grounds seeking set off of capital loss against capital gain to the tune of Rs.5,90,000/-, deemed rental income addition of Rs.60,000/- cash deposits of Rs.18,100/- and Rs.15,07,719/- made in the course of assessment and affirmed in lower appellate proceedings. The CIT(A) discusses the issue(s) as under:-

“07. *FINDINGS & DECISION:*

1. *I have carefully considered the submissions of the appellant-individual, as against the findings recorded by the ld. AO. I find that in the submissions the appellant has claimed that she incurred a loss of Rs.5,90,000/- by investing in films, something that was not mentioned before the ld.AO. I record that not only is this argument new, it does not even find a mentioned in the statement of facts filed in appeal. Also, no such mention has been made before the ld. AO. It is also pertinent to mention that this matter has also not been agitated in the grounds of appeal. This being so, in my considered opinion such a claim made by the appellant is absolutely bereft of merit and deserves to be rejected.*
2. *Ground No. 1 taken by the appellant is against the peak credit addition of Rs.15,07,719/- as made by the ld. AO being a major portion of the addition of cash credit. I find that there has been an admission by the appellant during the scrutiny in such matter, and it has been admitted that the deposits in the bank accounts were outside the books of accounts, and the ld.AO has also recorded the same. No attempt was made by the appellant to produce any books of accounts in appeal, or render any plausible explanation in the matter. It is noted that there is no relation or congruity between what was said before the ld.AO and what is being stated in appeal. I do not feel any need to interfere with the findings recorded by the ld. AO. The ground therefore deserves to be dismissed.*
3. *Ground No. 2 taken by the appellant states that the ld.AO was incorrect in adding an amount of Rs.18,100/- as unexplained cash credit in the bank account held jointly. It was submitted that the ld.AO is wrong, and such addition should be deleted. In the submission made in appeal, it has been contended that the deposit was made by the brother of the appellant Shri Ranjit Das for the treatment of the appellant's father. However, the appellant has not produced any confirmation from Shri Ranjit Das either before the ld.AO or in the appellate proceedings. Therefore, there is no requirement to interfere with the findings recorded by the ld. AO, which accordingly stand confirmed. The ground stands dismissed.*
4. *Grounds 3 and 4 are non-specific and do not require any adjudication, especially as the specific grounds already stand adjudicated.*
5. *Ground No. 5 relates to the right of the appellant-individual to raise additional grounds before or during the hearing of the appeal. As no*

such claims have been pressed by the appellant, there is no occasion to adjudicate in the matter.

In the final result, appeal filed by the appellant is treated as “dismissed”.

4. Learned Departmental Representative fails to rebut the clinching fact that the CIT(A)’s above stated findings nowhere formulate points of determination followed by him detailed adjudication as contemplated u/s. 250(6) of the Act. The assessee’s detailed explanation coupled with evidence filed before the Assessing Officer has nowhere been taken into consideration in lower appellate’s findings under challenge. I therefore deem it appropriate to restore all the instant issues back to the CIT(A) for fresh adjudication as per law within three effective opportunity(ies) of hearing to the assessee.

5. This Assessee’s appeal is partly allowed in above terms.

Order pronounced in the Court on 15 -05-2019

Sd/-

[S.S.Godara]
Judicial Member

Dated : 15 -05-2019

**PRADIP, Sr. PS

Copy of the order forwarded to:

1. Appellant/Assessee: Smt. Papia Kar 20 R.N Tagore Road, Kolkata-56.
2. Respondent/Department: Income Tax Officer, Ward 35(1), Kolkata .
- 3..C.I.T(A).- 4. C.I.T.- Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By Order

Assistant Registrar
H.O.O/D.D.O Kolkata