

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH '(B)', KOLKATA
[Before Shri P.M. Jagtap, Vice President (KZ) & Shri A.T. Varkey, JM]

I.T.A. No. 2618/Kol/2018

Assessment Year: 2015-16

Madan Mohan Sarcar.....*Appellant*

HA-2, Sector-3, Salt Lake City,

Kolkata - 700 091.

[PAN: AJSPS 6946 G]

Vs

ITO, Ward-22(3), Kolkata.....*Respondent*

54/1, Rafi Ahmed Kidwai Road,

Kolkata - 700 016.

Appearances by:

Shri Soumitra Choudhury, Advocate appearing on behalf of the Assessee.

Smt. Ranu Biswas, Addl. CIT appearing on behalf of the Revenue.

Date of concluding the hearing : December 03, 2019

Date of pronouncing the order : January 03, 2020

ORDER

PER P.M. JAGTP, VICE-PRESIDENT (KZ)

This appeal filed by the assessee is directed against the order of Ld. CIT(A) - 6, Kolkata dated 03.09.2018 passed ex-parte whereby he dismissed the appeal of the assessee by treating the same as barred by limitation.

2. The assessee in the present case is an individual who filed his return of income for the year under consideration on 16.10.2015. Thereafter, the assessee received Form No. 16A from the bank showing deduction of tax at source from interest amounting to Rs. 69,377/-. Accordingly a revised return was filed by the assessee on 03.02.2016 claiming credit for the tax so deducted by the bank. Meanwhile, the return of income filed by the assessee on 16.10.2015 was processed by the AO u/s 143(1) of the Act. The assessee, therefore, filed an application for rectification u/s 154 seeking credit

for the tax deducted at source by the bank from interest. The said application however was rejected by the AO vide an order dated 07.09.2016.

3. Against the order passed by the AO on 07.09.2016 rejecting the application filed by the assessee for rectification u/s 154, an appeal was preferred by the assessee before the Ld. CIT(A) on 25.10.2016. According to the Ld. CIT(A), the said appeal was belatedly filed by the assessee as the rectification order was passed by the AO on 26.01.2016. Since no application was filed by the assessee seeking condonation of the said delay, the Ld. CIT(A) treated the appeal of the assessee as barred by limitation and dismissed the same vide his appellate order dated 03.09.2018 passed ex-parte. Aggrieved by the order of the Ld. CIT(A), the assessee has preferred this appeal before the Tribunal.

4. We have heard the arguments of both the sides and also perused the relevant material available on record. As rightly pointed out by the learned counsel for the assessee, the order u/s 154 rejecting the application filed by the assessee for rectification was passed by the AO on 07.09.2016 and the same having been received by the assessee on 27.09.2016, the appeal filed before the Ld. CIT(A) on 25.10.2016 was well within the time-limit specified in the statute for filing the appeal before the Ld. CIT(A). There was thus no delay in filing the said appeal by the assessee as alleged by the Ld. CIT(A) and this position is not disputed even by the learned DR. She however has submitted that the issue involved in the present case relating to the claim of the assessee for credit of the tax deducted at source by the

bank from interest requires verification and the matter may, therefore, be sent back to the AO for such verification. We find merit in this contention of the ld. DR. The impugned order passed by the Ld. CIT(A) is accordingly set aside and the matter is restored to the file of the AO for considering the claim of the assessee for credit of tax deducted at source by bank from the interest after necessary verification.

5. In the result, the appeal of the assessee is treated as allowed for statistical purpose.

Order Pronounced in the Open Court on 3rd January, 2020.

Sd/-
(A.T. VARKEY)
JUDICIAL MEMBER

Sd/-
(P.M. JAGTAP)
VICE PRESIDENT

Dated: 03/01/2020
Biswajit, Sr. PS

Copy of order forwarded to:

1. Madan Mohan Sarcar, HA-2, Sector-3, Salt Lake City, Kolkata – 700 091.
2. ITO, Ward-22(3), Kolkata.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Assistant Registrar / H.O.O.
ITAT, Kolkata