

**IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH '(SMC)', KOLKATA
[BEFORE SHRI P.M. JAGTAP, VICE PRESIDENT (KZ)]**

I.T.A. No. 2289/Kol/2019

Assessment Year: 2012-13

Jay Labels.....Appellant

16, Tara Chand Dutta Street, Burrabazar,

Kolkata - 700 001.

[PAN: AACFJ 1142 N]

Vs

ITO, Ward-40(3)Kolkata.....Respondent

3, Govt. Place (West),

Kolkata - 700 001.

Appearances by:

Shri Anil Kochar, Advocate appearing on behalf of the Assessee.

Shri Jayanta Khanra, JCIT, Sr. DR appearing on behalf of the Revenue.

Date of concluding the hearing : January 16, 2020

Date of pronouncing the order : February 28, 2020

ORDER

This appeal filed by the assessee is directed against the order of Ld. CIT(A) - 12, Kolkata dated 12.06.2019 and the solitary issue involved therein relates to the addition of Rs. 3,68,785/- made by the AO and confirmed by the Ld. CIT(A) on account of the expenditure allegedly incurred by the assessee towards credit card.

2. At the outset, it is noted that there is a delay of 2 days on the part of the assessee in filing this appeal before the Tribunal. In this regard, an application seeking condonation of the said delay is filed by the assessee and keeping in view the reasons given therein, I am satisfied that there was a sufficient cause for the delay of 2 days on the part of the assessee in filing this appeal before the Tribunal. Even the learned DR has not raised any objection in this regard. I, therefore, condone the said delay and proceed to dispose of the appeal of the assessee on merit.

3. The assessee in the present case is a partnership firm. In the assessment originally completed u/s 143(3) vide an order dated 13.06.2014, the total income of the assessee was determined by the AO at Rs. 7,57,013/-. The said assessment was subsequently set aside by the concerned Pr. CIT vide an order dated 13.06.2014 passed u/s 263 with the direction to the AO to make the assessment afresh by conducting proper and sufficient enquiry on certain issues. As per the direction of the Ld. Pr. CIT, a fresh assessment was made by the AO vide an order dated 29.12.2017 passed u/s 143(3) r.w.s. 263 of the Act wherein he, inter alia, made an addition of Rs. 3,68,785/- to the total income of the assessee on account of the expenditure allegedly incurred by the assessee through credit card, the payment of which was made on 31.03.2012 to AXIS Bank. On appeal, the Ld. CIT(A) confirmed the said addition made by the AO. Aggrieved by the order of the Ld. CIT(A), the assessee has preferred this appeal before the Tribunal.

4. I have heard the arguments of both the sides and also perused the relevant material available on record. The learned counsel for the assessee has contended that no credit card was actually maintained by the assessee and there was no payment made to AXIS Bank against any credit card expenses as alleged by the AO. He has contended that this stand was taken by the assessee even before the Assessing Officer during the course of assessment proceedings and also before the Ld. CIT(A) during the course of appellate proceedings. He has submitted that the AO however did not confront the information or details available with him regarding the payment against credit card expenses as allegedly made by the assessee to AXIS Bank and in the

absence of the same, the assessee could not offer any explanation in the matter. He has urged that this matter, therefore, may be sent back to the AO with the direction to provide the relevant details to the assessee so that the required explanation can be offered by the assessee. Keeping in view all the facts of the case, I am inclined to accept this contention of the ld. counsel for the assessee. The ld. DR has also not raised any objection for sending the matter back to the AO for proper verification. I, therefore, set aside the impugned order passed by the Ld. CIT(A) on this issue and restore the matter to the file of the AO for deciding the same afresh after providing the relevant details to the assessee and after giving the assessee an opportunity to offer its explanation.

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

Order Pronounced in the Open Court on 28th February, 2020.

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

Dated: 28/02/2020

Biswajit, Sr. PS

Copy of order forwarded to:

1. Jay Labels, 16, Tara Chand Dutta Street, Burrabazar, Kolkata – 01.
2. ITO, Ward – 40(3), Kolkata.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

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