

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'D' BENCH, KOLKATA
[Virtual Court Hearing]**

(Before Shri P.M. Jagtap, Hon'ble Vice President, Kz & Shri Satbeer Singh Godara, Hon'ble Judicial Member)

**ITA No. 2068 & 2069/Kol/2019
Assessment Years: 2010-11 & 2011-12**

Pansuli High School.....Appellant
Nutandanga
Burdwan- 713381
West Bengal
[PAN : AAALP 1806 D]

Vs.

Income Tax Officer, Ward-4(2),TDS, Burdwan.....Respondent

Appearances by:

Shri S.P. Datta, Advocate, appeared on behalf of the assessee.

Shri Dhruvajyoti Roy, JCIT D/R, appearing on behalf of the Revenue.

Date of concluding the hearing : June 11th, 2020

Date of pronouncing the order : June 11th, 2020

ORDER

Per P.M. Jagtap, VP, Kz:-

These two appeals filed by the assessee are directed against two separate orders of the Learned Commissioner of Income Tax (Appeals) – Burdwan, (hereinafter the “ld.CIT(A)”), passed *ex-parte*, both dt. 10/05/2019, dismissing the appeals of the assessee filed against intimations u/s 200A of the Income Tax Act, 1961 ('Act') for the Assessment Year 2010-11 & 2011-12, for non-prosecution.

2. The assessee in the present case filed the TDS returns/statements for the Financial Year 2009-10 and 2010-11. From the perusal of the same, the Assessing Officer found that there was a short deduction of tax at source to the extent of Rs.1,630/- and short payment of tax deducted at source to the extent of Rs.10,000/- during the Financial Year 2009-10. He accordingly issued an intimation u/s 200A of the Act, showing the amount payable by the assessee for the Financial Year 2009-10 i.e. Assessment Year 2010-11 to the tune of Rs.18,120/- including interest of Rs.6,490/-. He also noticed a similar default on the part of the assessee in short payment of tax deducted at source (TDS) to the extent of Rs.2,82,920/- including interest of Rs.53,380/- for Assessment Year 2011-12 and accordingly issued intimation u/s 200A of the Act, for the same.

2.1. Against the intimations issued by the Assessing Officer u/s 200A of the Act for both the years under consideration, appeals were preferred before the Id. CIT(A) and since there was no satisfactory compliance on the part of the assessee to the notices issued by him, fixing the appeals for hearing from time to time, the Id. CIT(A) dismissed the appeals of the assessee vide appellate orders dt. 10/05/2019, passed *ex-parte*. Aggrieved by the orders of the Id. CIT(A), the assessee has preferred this appeal before the Tribunal.

3. We have heard the arguments of both the sides and also perused the relevant material available on record. At the outset it is noted that there is a delay of 38 days on the part of the assessee in filing these appeals before the Tribunal. In this regard, the assessee has filed an affidavit of Advocate Sri Siddhartha Pratim Datta, the authorised representative of the assessee stating that he was not well at the relevant time due to which the appeal could not be filed within the prescribed time limit. Keeping in view the same, we are satisfied that there was a sufficient cause for the delay of 38 days on the part of the assessee in filing of these appeals before the Tribunal. Even the Id. D/R, has not raised any objection in this regard. The said delay is accordingly condoned and these appeals of the assessee are being disposed off on merit.

3.1. The Id. Counsel for the assessee has submitted that there was no default on the part of the assessee in short deduction of TDS or short payment of TDS, as alleged by the Assessing Officer in the intimations issued u/s 200A of the Act, for both the Assessment Years under consideration. He has contended that no opportunity, however, was given by the Assessing Officer to the assessee to produce the relevant *challans*, in order to support and substantiate its case and even proper and sufficient opportunity of being heard was not given by the Id. CIT(A) also during the course of appellate proceedings before dismissing the appeals of the assessee for non-prosecution vide his impugned orders passed *ex-parte*. He has urged that these matters may, therefore, be sent back to the Assessing Officer for giving the assessee an opportunity to show that there is no case of any short deduction of TDS by the assessee as alleged by the Assessing Officer. Keeping in view all the facts and circumstances of the case, we are inclined to accept this contention of the Id. Counsel

for the assessee. Even the ld. D/R has not raised any objection in this regard and submitted that these matters can go back to the Assessing Officer for proper verification. The impugned orders passed by the ld. CIT(A) passed *ex-parte* for both the Assessment Years under consideration are accordingly set aside and the matters are restored to the file of the Assessing Officer for deciding the same afresh after giving the assessee an opportunity to produce the relevant *challans*, in order to show that there was no short payment of TDS, in both the Assessment Years under consideration.

5. In the result, both the appeals of the assessee are treated as allowed for statistical purposes.

Order pronounced in the open court on the 11th day of June, 2020.

Sd/-
[S.S. Godara]
 Judicial Member

Dated : 11.06.2020
 {SC SPS}

Sd/-
[P.M. Jagtap]
 Vice President

Copy of the order forwarded to:

1. **Pansuli High School**
Nutandanga
Burdwan- 713381
West Bengal

2. **Income Tax Officer, Ward-4(2), TDS, Burdwan**

3. CIT(A)-
 4. CIT- ,
 5. CIT(DR), Kolkata Benches, Kolkata.

True copy
 By order

Assistant Registrar
 ITAT, Kolkata Benches