

IN THE INCOME TAX APPELLATE TRIBUNAL “C(SMC)” BENCH, KOLKATA

(श्री ए.टी. वर्की, न्यायिक सदस्य)

[Before Shri A. T. Varkey, JM]

I.T.A. No. 284/Kol/ 2020

Assessment Year:2014-15

Satya Charan Pandit (PAN: ABGPS7938E)	Vs.	Income-tax Officer, Wd-45(2), Kolkata.
Appellant		Respondent

Date of Virtual Hearing	03.02.2021
Date of Pronouncement	05.02.2021
For the Appellant	Shri Somnath Bera, AR
For the Respondent	Shri Jayanta Khanra, JCIT, Sr. DR

ORDER

This is an appeal preferred by the assessee against the order of the Ld.CIT(A)-13, Kolkata dated 19.03.2019 for AY 2014-11.

2. The grounds of appeal raised by the assessee are as under:

“1. For that the CIT-A wrongly added back Rs.3,94,038/- without taken into consideration that the difference has arisen due to cheque returned dated on 18.06.2013, 09.07.2013, 13.07.2013 and 22.07.2013 respectively.

2. For that the CIT-A failed to take into consideration that the variance of Rs.3,94,038/- between the books of accounts and actual confirmation was due to return of four cheque dated on 18.06.2013, 09.07.2013, 13.07.2013 and 22.07.2013.”

3. At the outset, it is noted that there is a delay of 255 days in filing this appeal. For condonation of delay the assessee has filed an application along with an affidavit sworn by the assessee. From a perusal of the same it is noted that the assessee had handed over the appeal papers to an Advocate named Shri Brojaprasad Sen Roy Chowdhury who did not file the appeal on time because he was undergoing treatment for cancer and the assessee was on the assumption that the Advocate had filed the appeal. But only in January, 2020 the assessee came to know that the said Advocate has not filed the appeal. So he collected the same and filed it through another lawyer Shri Somnath Bera, therefore, the delay caused for which the assessee seeks condonation. The Ld. DR Shri Jayanta Khanra opposing the

condonation of delay submitted that the impugned order has been passed by the Ld. CIT(A) on 19.03.2019 and the delay of 255 days should not be condoned. After having heard both the parties, it is noted from the contents of the affidavit filed by the assessee that the assessee had handover the papers necessary for filing of appeal to Advocate Shri Brojaprasad Sen Roy Chowdhury. According to the assessee, on the assumption that such advocate would be filing the appeal within limitation, however, due to Covid-19 lockdown etc. which set in from December, 2019 and the year 2020 onwards the assessee could only contact Shri Brojaprasad Sen Roy Chowdhury in January 2020 who intimated him that he was undergoing treatment of cancer and did not file the appeal on time and, therefore, the assessee took back the papers and handed over the same to Advocate Shri Somnath Bera who immediately filed the appeal. Taking into consideration these facts and also taking into consideration the Covid-19 pandemic, I condone the delay and admit the appeal for hearing.

4. The issue raised by the assessee is against the action of the Ld. CIT(A) in confirming the addition of Rs.3,94,038/-. The facts noted by the AO are that during the assessment proceeding the AO perused the details of purchase account of the year under consideration and on verification through a notice u/s. 133(6) of the Income-tax Act, 1961 (hereinafter referred to as the "Act") he noted certain anomalies/discrepancies in the case of four (4) sellers which he has brought out in the chart at page 2 of the assessment order. I am concerned only about the party 'M/s. Laduram & Sons' wherein AO noticed that as per books of assessee it is shown as Rs.30,28,734.64 whereas as per confirmation it revealed that it is Rs.34,21,275.00. Thus, according to AO, there was a difference of Rs.3,92,540/-. Therefore, he made addition of the amount as concealed income/investment made for purchases during the year under consideration.

5. Aggrieved the assessee preferred an appeal before the Ld. CIT(A) wherein the assessee brought to the notice of the Ld. CIT(A) in respect of this party that the difference was because the four (4) cheques as stated below got returned due to technical snag of the bank and the amount was again shown (double), therefore, this anomaly arose. Before the Ld. CIT(A) the assessee has also brought to his notice that the opening balance of Rs.1,37,000/- has also not been considered by the AO while making the addition. The Ld. CIT(A) notes the following facts brought to his notice by assessee:

Opening Balance	Rs.137000.00
Ch. Return entry (Ch. No. 433859 dated 18.06.2013)	Rs.118347.00
Ch. Return entry (Ch. No. 435343 dated 09.07.2013)	Rs. 53846.00
Ch. Return entry (Ch. No. 435090 dated 13.07.2013)	Rs. 31625.00
Ch. Return entry (Ch. No. 432506 dated 22.07.2013)	Rs. 51499.00
	Rs.392317.00
Actual difference (minor)	Rs. 224.00
Total	Rs.392541.00

6. Thereafter, the Ld. CIT(A) denied the claim of assessee by holding as under:

“The above claim has been made without producing copies of relevant bank statement. Only ledger copies of Laduram & Sons were filed in the course of appeal. The A/R filed only grounds of appeal but no submission were filed. Even when asked to produce copies of bank statement the Ld. A/R failed to provide the same. It is therefore difficult to accept the A/R’s plea that difference represents bounced/returned cheques. The ground is therefore not allowed.”

7. Before me the Ld. AR drew our attention to the paper book wherein the ledger of Shri Satya Charan Pandit (assessee) on account of M/s. Laduram & Sons placed at pages A1 to A12 of paper book. Thereafter, he drew our attention to the ledger of M/s. Laduram & Sons in account of the assessee placed at pages B1 to B6 of the paper book and the summary of difference placed at annexure ‘C’ and also the bank statement of Indian Overseas Bank which is placed at pages D1 – D19. According to Ld. AR, the assessee has reconciled the purchases with M/s. Laduram & Sons which is as below:

MESSE. SATYA CHARAN PANDIT
P-185, Strand Bank Road,
Kolkata - 700 007

PURCHASE RECONCILIATION STATEMENT
FOR THE FINANCIAL YEAR: 2013-14.
WITH LADURAM & SONS
67/45B, Strand Road,
Kolkata - 700 007

AS PER LEDGER (F.Y. 2013-14)
OF LADURAM & SONS

Total of Debit side (Purchase)	Rs. 34,21,275.68
less: Wrongly entered into Debit side	
Opening Balance	1,37,000.00
<u>Cheque Return</u>	
18.06.2013 433859	1,18,347.00
09.07.2013 435043	53,846.00
13.07.2013 435090	31,625.00
22.07.2013 432506	51,499.00
	<u>3,92,317.00</u>
	30,28,958.68

8. Further, the Ld. AR drew our attention to paper book page A3 which would reveal that cheque No. 433859 was deposited on 15.06.2013 and the same was shown as credited of sum of Rs.1,18,347/-. However, the bank returned the cheque on 18.06.2013 and thereafter, realizing the mistake (technical snag) the very same cheque (No.433859) was again deposited and the amount was again credited of the same amount i.e. Rs.1,18,347/-. Thus, there were double entry/credit of the same cheque. Likewise it happened in respect of the other three cheques wherein double entry of the credit of the amounts in question happened, due to technical snag of software of bank . Bringing this fact to my notice the Ld. AR submitted when reconciled, the actual difference is only to the tune of Rs.224/- which is very small in nature and should be ignored. It is noted that the assessee had brought to the notice of the Ld. CIT(A) that the AO has made the addition without considering the four returned cheques and the opening balance as stated above. However, the Ld. CIT(A) notes that since the assessee did not produce the copy of bank statement, he could not verify the same, therefore, he disallowed the claim of the assessee. Before me the assessee has filed the copy of the bank statement of Indian overseas Bank which is placed at annexure D1 – D19 and other documents (supra). Since the AO/Ld. CIT(A) could not verify the facts stated by him (supra), in the interest of both the parties, I set aside the order of Ld. CIT(A) and remand this issue to the file of AO for the limited purpose of verification only ; and if it is found to be correct then no addition is warranted and otherwise, the AO to take decision in accordance to law. The assessee is at liberty to file all documents which have been produced before this Tribunal as discussed (supra). Therefore, the appeal of assessee is allowed for statistical purposes.

7. In the result, the appeal of assessee is allowed for statistical purposes.

Order is pronounced in the open court on 5th February, 2021.

Sd/-
(Aby. T. Varkey)
Judicial Member

Dated : 5th February, 2021

JD(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – Shri Satya Chanran Pandit, P-185, Strand Bank Road, Kolkata-700 007.
2. Respondent – ITO, Ward-45(2), Kolkata.
3. CIT(A)-13, Kolkata (sent through e-mal)
4. CIT , Kolkata
5. DR, ITAT, Kolkata. (sent through e-mal)

/True Copy,

By order,

Assistant Registrar