

IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH "B-SMC" KOLKATA

Before Shri Sanjay Garg, Judicial Member

आयकर अपील सं.य/ ITA No. 2473/Kol/2019 Assessment Year:2013-14
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Smt. Sangita Jhunjhunwala 5E New Road, Alipur, Kolkata-27. [PAN No.ACKPJ1818R	बनाम/ V/s.	I.T.O., Ward 29(4), Kolkata, Aaykar Bhavan Dakshin, 2 No. Gariahat Road, Kolkata-700 031.
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

Hearing through video Conferencing

अपीलार्थी की ओर से/By Appellant	Mr. Gour Saran Kedia, AR
प्रत्यर्थी की ओर से/By Respondent	Mr. Jayanta Khanra, JCIT, Sr.DR
सुनवाई की तारीख/Date of Hearing	11-02-2021
घोषणा की तारीख/Date of Pronouncement	11-02-2021

आदेश /O R D E R

The present appeal has been preferred by the assessee against the order dated 05-09-2019 of the Commissioner of Income-tax (Appeals)-12, Kolkata [hereinafter referred to as 'CIT(A)'].

2. The assessee in this case has raised the following grounds of appeal:-

1. That Ld. Commissioner of Income Tax (Appeals) hereinafter referred to as Ld. CIT(A) has erred by partly confirming the impugned order passed by the Ld. Assessing Authority.

2. That the Ld. CIT(A) has erred by only allowing the partial amount of rent and considering the net amount of payment after adjustment of advance whereas the Ld. Appellate Authority has failed to consider the actual payable amount.

3. That the Ld. CIT(A) has erred by confirming the addition of Rs. 53,676/-. In this regard your petitioner submits that she had not claimed any

expenditure against the exempt income. Moreover, your petitioner has only dividend of Rs. 802/- as exempt income only.

4. That the Ld. CIT(A) has erred by confirming the addition of Rs. 1,10,023/- by disallowing the claim of your petitioner u/s. 80C & 80D of the Income-tax Act, 1961 despite production of all the supportive documents.

5. That the order of Ld. CIT(A) partially confirming order of the Ld. AO is whimsical, capricious and most prejudicial one.

6. That Ld. CIT(A) has erred by not allowing a reasonable opportunity of being heard before confirming the order of assessment passed by Ld. AO which is most arbitrary and thus violates the principle of natural justice.

7. That the order of Ld.AO & by Ld. CIT(A) both are bad on points of law as well as on facts as such void under the law.

8. That your petitioner craves leave to add, alter, amend, modify, substitute, withdraw any of the ground or grounds of this appeal petition on or before or at the time of hearing.

2. A perusal of above grounds of appeal reveals that in this appeal the assessee has contested the two issues. First issue is the disallowance out of expenditure claimed on rent paid. The second issue is regarding the disallowance of deduction claimed under section 80C & 80D of the Income Tax Act, 1963 (in short, the ‘ Act’).

3. As far as the first issue is relating to disallowance in respect of expenditure claimed on account of rent payment is concerned, the Ld. CIT(A) has observed that the assessee though has claimed rent expenditure for 12 months, but, however, she produced bills/receipts only for 8 months. Ld. Counsel for the assessee has submitted that the assessee had produced also the receipts of rent payment for other 4 months, but the lower authorities have failed to consider the same. Similarly, in relation to claim of deduction u/s. 80C/80D, Ld. Counsel has submitted that the assessee had paid medical insurance premium. That receipt was produced before the lower authorities, which has been overlooked by the lower authorities.

4. Since the assessee’s claim is based on evidences/receipts, the same can be well verified by the Ld. Assessing Officer (in short, the ‘ Ld. AO’). In view of the above, the impugned order of the Ld. CIT(A) is set aside and the matter is restored to the file of the Ld. AO with the direction that he will consider the evidences/receipts etc. if any, filed by the assessee and thereafter decide the issue afresh as per law. Needless to say that Ld.AO will provide adequate opportunity to the assessee to present her case.

The appeal of the assessee stands allowed for statistical purpose.

Order pronounced in open court at the close of the hearing on
Thursday, 11th February, 2021.

दिनांक/Date- 11/02/2021
कोलकाता/Kolkata
**PP/Sr.PS

Sd/-
(Sanjay Garg)
Judicial Member

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. अपीलार्थी/Appellant- Smt. Sangita Jhunjhunwala,
5E New Road, Alipur, Kolkata-27..
2. प्रत्यर्थी/Respondent- I.T.O., Ward 29(4), Kolkata, Aaykar Bhavan Dakshin,
2 No. Gariahat Road, Kolkata-700 031
3. संबंधित आयकर आयुक्त / Concerned CIT I.T.O., Ward 29(4),
Kolkata, Aaykar Bhavan Dakshin, 2 No. Gariahat Road, Kolkata-700 031
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/ By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, कोलकाता ।