

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

[THROUGH VIRTUAL COURT]

I.T.A. No. 340/Kol/2021
Assessment Year: 2018-19

Smt. Indu Bansal.....*Appellant*
240B, A.J.C. Bose Road,
Kolkata - 700 020.
[PAN: ADJPB 1715 F]

Vs

CIT(A), National Faceless Appeal Centre.....*Respondent*

Appearances by:

None appearing on behalf of the Assessee

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

Date of concluding the hearing : November 08, 2021

Date of pronouncing the order : November 08, 2021

ORDER

This appeal filed by the assessee is directed against the order of Id. Commissioner of Income Tax (Appeals) - 9, Kolkata (National Faceless Appeal Centre) dated 05.03.2021 and the solitary issue involved therein relates to the disallowance of assessee's claim for deduction of Rs. 1,01,454/- under Chapter VI-A of the Income Tax Act, 1961.

2. The assessee in the present case is an individual who filed her return of income for the year under consideration on 29.08.2018. The said return was processed u/s 143(1) of the Act by the CPC, Bangaluru determining the total income of the assessee at Rs. 7,12,400/- and tax payable thereon at Rs. 62,089/- (including interest) as against the tax payable of Rs. 36,742/- shown by the assessee.

3. Against the intimation dated 17.06.2019 issued by the Dy. CIT, CPC, Bangaluru u/s 143(1) of the Act, an appeal was preferred by the assessee before the Ld. CIT(A) and the following submission was made on behalf of the assessee in writing, in support of her case during the course of appellate proceedings before the Ld. CIT(A):

“i. That the only ground in an appeal is that the appellant filed its return of income on 29.08.2018 declaring Return Income for Rs. 6,10,944/- and claiming deduction u/s 80C on LIC Premium for Rs. 1,00,000/-.

ii. That the order of Ld.DCIT CPC has not allowed the deduction of LIC Premium for Rs. 1,00,000/- at the time of proceeding the intimation though the same was rightly claimed in the return.

iii. That there was an error in the system resulting the total income of the appellant was taken at Rs. 7,12,398/- without deducting the claim of 80C of LIC for Rs. 1,00,000/- though the correct figure of LIC is reflected in page no. 39 of ITR-3.”

4. The Ld. CIT(A) did not find merit in the submission made by the assessee. According to him, there was no deduction claimed by the assessee under Chapter VI-A in the return of income and by relying on the decision of Hon'ble Supreme Court in the case of Goetze (India) Ltd. vs CIT 284 ITR 323, he held that the claim of deduction not made in the return cannot be entertained by the Assessing Officer otherwise than by filing a revised return. He accordingly dismissed the appeal of the assessee vide an appellate order dated 05.03.2021 which is impugned by the assessee in the present appeal filed before the Ld. CIT(A).

5. At the outset, it is noted that there is a delay of 139 days on the part of the assessee in filing this appeal before the Tribunal. In this regard, the assessee has moved an application seeking condonation of the said delay and keeping in view the reason given therein, I am

satisfied that there was a sufficient cause for the delay of 139 days on the part of the assessee in filing the appeal before the Tribunal. The same is accordingly condoned.

6. At the time of hearing fixed in this case today, none has appeared on behalf of the assessee. This appeal of the assessee is, therefore, being disposed of ex-parte after hearing the arguments of the Ld. DR and perusing the relevant material available on record. It is observed that a copy of income tax return claiming deduction under Chapter VI-A amounting to Rs. 1,01,454/- was filed by the assessee during the course of appellate proceedings before the Ld. CIT(A). A photocopy of payment made to LIC towards premium amounting to Rs. 1,00,000/- was also filed by the assessee to further support its claim for deduction under Chapter VI-A. It was claimed by the assessee that her claim for deduction under Chapter VI-A was not reflected in the return due to some technical fault in the system at the time of uploading the return. It appears that the Ld. CIT(A) however brushed aside this submission made by the assessee by relying on the decision of Hon'ble Supreme Court in the case of Goetze (India) Ltd. where it was held that the claim of deduction not made in the return cannot be entertained by the Assessing Officer otherwise than by filing the revised return. In our opinion, the facts involved in the case of Goetze (India) Ltd. before the Supreme Court however were different from the present case in as much as the return in this case was filed by the assessee online and the claim for deduction under Chapter VI-A was stated to be not reflected in the said return due to some technical fault in the system at the time of uploading the return. Moreover as observed by the Supreme Court in the case of Goetze (India) Ltd. (supra), the decision rendered in the said

case does not impinge the powers of the Tribunal u/s 254 of the Act. Keeping in view all these facts of the case, I consider it fair and proper and in the interest of justice to set aside the impugned order passed by the Ld. CIT(A) and restore the matter to the file of the AO for deciding the same afresh after verifying the claim of the assessee for the deduction under Chapter VI-A from the relevant documentary evidence.

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

Order Pronounced in the Open Court on 8th November, 2021.

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

Dated: 08/11/2021
Biswajit, Sr. PS

Copy of order forwarded to:

1. Smt. Indu Bansal, 240B, AJC Bose Road, Kolkata – 700020.
2. CIT(A), National Faceless Appeal Centre.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Sr. Private Secretary/DDO
ITAT Kolkata Benches, Kolkata