

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'SMC' BENCH, KOLKATA**

(Before Sri Sanjay Garg, Judicial Member)

**I.T.A. No. 356/Kol/2021
Assessment Year: 2007-08**

Ashoke Das.....Appellant
[PAN: AEXPD 0724 M]

Vs.

ACIT, Circle- 29, Kolkata.....Respondent

Appearances by:

Sh. S.M. Surana, Adv., appeared on behalf of the Assessee.

Sh. Sandip Sengupta, Addl. CIT, appeared on behalf of the Revenue.

Date of concluding the hearing : January 31st, 2022

Date of pronouncing the order : January 31st, 2022

ORDER

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order passed by the Commissioner of Income Tax (Appeals)-XXXIII, Kolkata [hereinafter referred to as Id. 'CIT(A)'] u/s 250 of the Income Tax Act, 1961 (hereinafter the 'Act') dated 26.02.2013 for AY 2007-08.

2. The assessee in this appeal has taken the following grounds of appeal:

"1) For that the Ld. CIT(A) erred in confirming the addition of Rs. 7211/- being coordination charges paid by the appellant.

2) For that the Ld. CIT(A) erred in confirming the addition of Rs. 27 lakh being the genuine loan taken by the appellant."

3. The Id. Counsel for the assessee has stated at Bar that as per the instruction of his client, he does not press ground no. 1. So, ground no. 1 is dismissed as not pressed.

4. Vide ground no. 2, Id. Counsel for the assessee has contested the addition of Rs. 27 lakh made by the Assessing Officer (hereinafter the 'AO') on the ground that the assessee could not establish the identity and creditworthiness of the creditor and the genuineness of the transaction relating to the alleged loan of Rs. 27 lakh. At the outset, the Id. Counsel for the assessee has brought my attention to the impugned assessment

order and submitted that the same is an *ex-parte* order passed u/s 144 of the Act. The ld. Counsel for the assessee has submitted that due to unavoidable circumstances, the assessee could not produce the required evidence before the AO. He has further submitted that the loan transaction was genuine transaction through banking channel and that the assessee may be given an opportunity to produce the necessary evidence relating to the identity and creditworthiness of the creditor and genuineness of the transaction. The ld. D/R on the other hand, has relied upon the findings of the lower authorities.

5. Considering the rival submissions, in my view the interest of justice will be well served if the assessee is given an opportunity to produce necessary evidence before the AO to prove the identity and creditworthiness of the creditor and genuineness of the transaction.

6. In view of this, the impugned order of the ld. CIT(A) is set aside and the matter is restored to the file of the AO with a direction to decide the issue afresh after giving adequate opportunity to the assessee to produce necessary evidence relating to the issue as discussed above.

7. In the result, the appeal of the assessee is partly allowed.

Order is pronounced in the open court on 31.01.2022.

Sd/-
[Sanjay Garg]
Judicial Member

Dated: 31.01.2022

Bidhan (P.S.)

Copy of the order forwarded to:

1. **Ashoke Das, Nabagram, Panchpota, Garia, Kolkata-700 152.**
2. **ACIT, Circle- 29, Kolkata.**
3. CIT(A)-XXXIII, Kolkata.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

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By order

Senior Pvt. Secy./DDO/H.O.O.
ITAT, Kolkata Benches,
Kolkata