

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC"
(Virtual Court Hearing), BENCH KOLKATA

Before Shri Sanjay Garg, Judicial Member

I.T.A. No.293/Kol/2021
Assessment Year: 2015-16

Jhumpa Sinha.....Appellant
Vill+P.O- Kurungram,
P.S-Nalhati,
Dist.-Birbhum.
[PAN: CXKPS4706E]

vs.

ITO, Ward-3(4), Suri.....Respondent

Appearances by:

Shri Sumit Ghosh, AR, appeared on behalf of the appellant.
Shri Gautam Mondal, Addl. CIT, appeared on behalf of the Respondent.

Date of concluding the hearing : February 02, 2022

Date of pronouncing the order : February 02, 2022

Hearing through Video Conferencing

ORDER

The present appeal has been preferred by the assessee against the order dated 14.06.2019 of the Commissioner of Income Tax (Appeals), Burdwan [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act'). The assessee in this appeal has taken the following grounds of appeal:

"1. That the order of the Ld. A.O. is bad-in-law and against the facts and circumstances of the case.

2 For under the facts and circumstances of the case the assessee is a whole seller of agricultural crops like wheat, potato etc. and filed income tax returns regularly. The assessee declaring total income of Rs.2,92,542/- and showing cash on hand in the balance sheet of Rs. 20,86,080/- for the year ended 31st March, 2015 which has come past agricultural savings income but while passing the order of assessment the Ld. A.O. did not consider and added Rs. 19,68,887/- (Rs.20,00,000/- - Rs. 1,17,193/-) to the total income of the assessee which is arbitrary, unjustified and not sustainable in law.

3. For under the facts and circumstances of the case that there is no limit for holding cash in hand. Cash in hand has kept by the assessee as a measure of contingency. There is no law which fixes any ceiling limit for cash in hand. Cash in hand of Rs. 20,86,080/- are business cash and kept it for use in the business but while passing the order of

assessment the Ld. A.O. did not give cognizance to the fact and added Rs. 19,68,887/- to the total income of the assessee which is arbitrary, bad-in-law and liable to be deleted.

4. For that the order of assessment is contrary to the principles of natural justice and is otherwise bad-in-law as well as on facts.

5. That the appellant firm craves leave to add, to alter, to amend and to delete any of the other grounds at the time of hearing.”

2. At the outset, the Id. Counsel for the assessee has brought my attention to the impugned order of the Ld. CIT(A) to submit that the same is an ex parte order. He has further submitted that even the Id. CIT(A) did not consider the issues on merits but dismissed the appeal of the assessee for want of appearance. The Id. Counsel has further submitted that the assessee has not been given adequate opportunity to present their case. He has further submitted that even otherwise the Id. CIT(A) was supposed to decide the issue on merits. The Id. DR could not rebut the above submissions of the assessee.

3. I find merit in the submissions of the assessee that the Id. CIT(A) was supposed to decide the appeal of the assessee on merits. In view of this, the impugned order of the Id. CIT(A) is set aside and the matter is restored to the file of CIT(A) to decide afresh. Needless to say that the Id. CIT(A) will give proper opportunity to the assessee to present their case.

4. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Kolkata, the 2nd February, 2021.

Sd/-
[Sanjay Garg]
Judicial Member

Dated: 02.02.2022.

RS

Copy of the order forwarded to:

1. Jhumpa Sinha
2. ITO, Ward-3(4), Suri
3. CIT(A)-

4. CIT- ,
5. CIT(DR),

//True copy//

By order

Sr.PS/D.D.O, Kolkata Benches