

IN THE INCOME TAX APPELLATE TRIBUNAL “B(SMC)” BENCH, KOLKATA
[Before Shri A. T. Varkey, JM]**I.T.A. No. 590/Kol/2021**
Assessment Year: 2013-14

Mrs. Amita Singh (PAN: AQTPS 0827 N)	Vs.	ITO, Ward-51(2), Kolkata
Appellant		Respondent

Date of Hearing (virtual)	10.02.2022
Date of Pronouncement	18.02.2022
For the Appellant	Shri K.M. Roy , CA
For the Respondent	Smt. Archana Gupta, Sr. D.R.

ORDER

This is an appeal preferred by the assessee against the order of Ld. CIT(A)-National Faceless Appeal Centre (NFAC), Delhi dated 28.09.2021 for AY 2013-14.

2. None appeared for the assessee.

3. At the outset, it is noted that this appeal is time barred by 24 days. However after going through the reasons given in the application for condonation of delay, I am inclined to condone the delay and admit the appeal for hearing.

4. The only ground of the assessee is against the action of the AO to have made an addition of Rs. 4 lacs which according to assessee was an advance taken in this assessment year, which was offered by her in her return of income in the subsequent assessment year i.e. AY 2014-15 wherein assessee offered Rs. 20 Lacs which included Rs. 4 lacs which has been added by the AO in this relevant assessment year AY 2013-14.

5. Brief facts of the case is that the AO made an addition of Rs. 4 lacs taking note that the assessee did not disclose this amount of Rs. 4 lacs in her return of income. According to AO, the assessee has received the sum of Rs. 4 lakhs as professional fees for giving advice in her professional capacity (consultancy in financial transaction) to Mr. Pankaj Kumar Singh. According to AO the assessee ought to have shown this amount in the profit

and loss account rather than in the balance sheet as liability. Therefore he made an addition of Rs. 4 Lacs. also.

6. Aggrieved the assessee preferred an appeal before the Ld. CIT(A) who was pleased to confirm this addition.

7. Aggrieved the assessee is before us.

8. I have heard both the parties. According to Ld. D.R despite the Ld. CIT(A) calling for the ledger accounts, statement of bank account etc. the assessee failed to produce the same so according to her, the Ld. CIT(A) had no other alternative but to confirm the addition. According to the Ld. D.R. simply by giving some statement/explanation cannot be a ground to give relief to the assessee since it required verification. According to Ld. D.R. the assessee failed to cooperate and discharge the onus on her during the first appellate proceedings. Therefore, the Ld. CIT(A) has confirmed the action of the AO. Therefore, she does not want me to interfere with the order of the Ld. CIT(A).

9. I have perused the assessment order as well as impugned order of the Ld. CIT(A). From a perusal of the same it is discerned that the AO has made addition on the basis that the assessee ought to have shown the sum of Rs. 4 lacs in the profit and loss account rather than as a liability in the balance sheet and the Ld. CIT(A) has confirmed the same since the assessee did not produce certain documents called for by him. It is noted from the explanation given by the assessee that she started financial consultancy at the fag end of this relevant assessment year and she received Rs. 4 Lacs as an advance since the contractual terms and condition between the parties were not finalized. Therefore she has shown the receipt of Rs. 4 Lakhs as a liability in the balance sheet and not credited it in the profit and loss account. However, according to the assessee, in the subsequent assessment year i.e. AY 2014-15 she had duly offered for taxation as her professional fees to the tune of Rs. 20lacs which included this receipt of Rs. 4 Lacs. Therefore according to assessee, since Rs. 4 Lacs which the AO/Ld. CIT(A) has added/sustained had been already offered for taxation albeit in the subsequent assessment year 2014-15, this will tantamount to double addition. So in sum & substance according to assessee if this addition is confirmed it will amount to double taxation in the background of the facts and circumstances as

discussed supra. Be that as it may be, for the ends of justice and fair play I am inclined to set aside the impugned order of the Ld. CIT(A) and remand this issue back to the file of AO with a direction to examine/verify the facts stated by the assessee (supra) that she has offered this amount of Rs. 4 lacs in the subsequent assessment year i.e. AY 2014-15 in her professional receipt of Rs. 20 lacs; and on verification if it is found that the assessee's claim is correct, then according to me, no addition of Rs. 4 lacs is warranted because it will tantamount to double taxation. And it is noted that by this action, there will be no revenue loss as such because it will be tax neutral. However, if the assessee's claim is not correct, then the addition to be confirmed since the character of the receipt of Rs. 4 Lakhs is admitted by the assessee's admission (though in subsequent AY 2014-15) that it was professional receipt, though shown by the assessee as a liability in the balance sheet. Therefore I am inclined to set aside the impugned order and remand this issue back to the file of AO and direct the AO to reassess in the light of the observation given supra and in accordance to law and direct the assessee to participate in the assessment proceedings and file documents to substantiate her claim accordingly.

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

Order is pronounced in the open court on 18th February, 2022.

Sd/-

(Aby. T. Varkey)
Judicial Member

Dated: 18.02.2022

SB, Sr. PS

Copy of the order forwarded to:

1. Assessee – Mrs. Amita Singh, IB 132, Sector III, Salt Lake City, Kolkata-700091.
2. Revenue – ITO, Ward-51(2), Kolkata
3. CIT(A)-National Faceless Appeal Centre
4. CIT, Kolkata.
5. DR, ITAT, Kolkata, (sent through e-mail)..

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Bench, Kolkata