

IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH: KOLKATA
[Before Shri Rajesh Kumar, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 558/Kol/2021
Assessment Year : 2013-14

Arun Kumar Saraf (PAN: AKUPS 4980 K)	Vs.	DCIT, CC-1(4), Kolkata
Appellant		Respondent

Date of Hearing	04.05.2022
Date of Pronouncement	10.05.2022
For the Appellant	Shri Siddharth Patodia, A.R
For the Respondent	Smt. Ranu Biswas, Addl. CITDR.

ORDER

Per Shri Rajesh Kumar, AM:

This is an appeal preferred by the assessee against the order of the Commissioner of Income Tax(Appeals)-20, Kolkata [hereinafter referred to as ‘CIT(A)’] dated 25.10.2021 for the assessment year 2013-14.

2. The only issue raised by the assessee is against the order of Ld. CIT(A) confirming the addition of Rs. 5,00,000/- as made by the AO towards donation given by the assessee.

3. The facts in brief are that the assessment u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as the Act) was framed vide order dated 29.12.2015. Thereafter the audit party raised an objection that while framing the assessment the AO has omitted to add the donation of Rs. 5,00,000/- given by the assessee. Accordingly a notice u/s 154 of the Act dated 17.01.2017 was issued by calling upon to issue show cause as to why the said amount should not be added to the income of the assessee which was not replied by the assessee and the AO finally passed the order u/s 154 r.w.s 143(3) of the Act dated 13.04.2017 adding Rs. 5,00,000/- on account of expenditure on donation.

4. The assessee assailed the order of AO before the Ld. CIT(A) on the ground that he has not claimed any expenditure in the profit and loss account and therefore the order passed by the AO is not correct. However the contention of the assessee did not find favour with the Ld CIT(A) and he also confirmed the order of AO nevertheless the Ld. CIT(A) observed in para 3.3. of the appellate order that the assessee has not claimed the said expenditure in the profit and loss account but claimed deduction u/s 80G(5) amounting to Rs. 2,50,000/- . The Ld CIT(A) has given a finding that the assessee has failed to furnish the necessary documents in support of its claim and finally confirmed the addition justifying the order of AO.

5. After hearing rival parties and perusing the material on record, we note that the authorities below have miserably failed to appreciate the facts of the case correctly that the donation given by the assessee of Rs. 5,00,000/- was never claimed as expenditure by the assessee in the profit and loss account and therefore there is no question of making addition of the same as expenditure on donation as has been done by the AO and confirmed by the Ld. CIT(A). We note that though the Ld. CIT(A) noted that the assessee has not claimed any deduction as expenditure in the profit and loss account but confirmed the addition by giving contradictory findings. Under these circumstances, we are not in a position to concur with the conclusion reached by the Ld. CIT(A) and accordingly we set aside the order of Ld. CIT(A) by directing the AO to delete the disallowance of Rs. 5,00,000/-.

6. In the result, the appeal of the assessee is allowed.

Order is pronounced in the open court on 10th May, 2022

Sd/-

(Sonjoy Sarma)
Judicial Member

Sd/-

(Rajesh Kumar)
Accountant Member

Dated: 10th May, 2022

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- Arun Kumar Saraf, Flat No. 504, 12, Ashoka Road, Alipore Road, Kolkata-700027.
2. Respondent – DCIT, Central Circle-1(4), Kolkata
3. The CIT(A)- 20, Kolkata (Sent through e-mail)
4. Pr. CIT- Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata