

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

Before

SRI MANISH BORAD, ACCOUNTANT MEMBER

&

SRI SONJOY SARMA, JUDICIAL MEMBER

**I.T.A. No.: 182/Kol/2022
Assessment Years: 2017-18**

Manish Kumar Julania.....Appellant
[PAN: ACGPJ 9725 K]

Vs.

ITO, Ward-2(1), Asansol.....Respondent

Appearances by:

None appeared on behalf of the Assessee.

Sh. Kausik K. Das, Sr. D/R, appeared on behalf of the Revenue.

Date of concluding the hearing : June 9th, 2022

Date of pronouncing the order : June 15th, 2022

ORDER

Per Manish Borad, Accountant Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short "AY") 2017-18 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the "Act") by Id. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [in short Id. "CIT(A)"] dated 15.11.2021 arising out of the assessment order framed u/s 143(3) of the Act dated 17.06.2019.

2. Registry has informed that the appeal is time barred by 90 days. Condonation application has been filed by the assessee.

Perusal of the same shows that the delay was on account of COVID-19 restrictions. We, therefore, in view of the judgment of The Hon'ble Supreme Court vide *Miscellaneous Application No. 21 of 2022* find that the limitation period in filing appeal between 15.03.2020 till 28.02.2022 has been excluded for calculating the limitation period. Since the period of limitation in the case of the assessee falls during this period, the same deserves to be extended and we, therefore, condone the delay of 90 days and admit the appeal for adjudication.

3. When the case called up, none appeared on behalf of the assessee. However, since sufficient opportunity has been granted to the assessee, we are proceeding ahead to adjudicate the issue raised in this appeal with the assistance of Id. D/R and the available records.

4. The assessee in this appeal before the Tribunal has raised following grounds:

"1. FOR THAT the orders passed by the authorities below are arbitrary and capricious in nature;

2. FOR THAT the appellate authority passed the order totally without application of mind, since the same has nothing to do with non-deduction of TDS (as enumerated in para 6/page 7 of the appellate order) nor any cogent reason passed for not inclining to interfere, may the same kindly be set-aside/quashed on such counts;

3. FOR THAT the authorities below misconstrued the relevant provision of law being not applicable on the present factual aspect where advances were paid on the date of agreement for purchase of land/flat which is different from the date of registration, as such the stamp duty value on the date of agreement to be taken, being the first proviso dependent upon the satisfaction of the second proviso, should have been comprehend accordingly;

4. *FOR THAT the relevant provision of law can be made applicable only in a situation when both the agreement and the registration exist on a given period of time, but in the instant case the flat was registered much after, as such the same cannot be made applicable in the instant case;*

5. *FOR THAT the authorities below erred in law when the alleged suppression of sales of Rs.51,731/- was added as Income from Business, according full reliance to the information given by M/s Bisman Industries Ltd., of Salanpur u/s 133(6) of the I.T. Act, treating the same as sacrosanct, giving no cognizance to the documentary evidences submitted by the appellant.”*

5. On perusal of the above grounds and observing the assessment order passed in the case of the assessee on 17.06.2019 u/s 143(3) of the Act, facts are that against the return of income of Rs. 4,19,590/- declared in the e-return on 28.10.2017, the case of the assessee being selected for scrutiny, addition of Rs. 8,56,697/- has been made for undisclosed income from other sources and addition of Rs. 51,731/- has been made for suppression of sales.

6. We, further, observe that when the matter travelled before ld. CIT(A), there was no compliance on behalf of the assessee on the date of online submission scheduled on 15.10.2021, 20.08.2021 and 18.02.2021 and as a result, ld. CIT(A) completed the appellate proceedings *ex-parte* and without discussing the merits of the case. Ld. CIT(A) has only reproduced the statement of facts filed by the assessee and confirmed the finding of ld. Assessing Officer (in short ld. “AO”).

7. We, therefore, under the given facts and circumstances of the case and in the interest of justice, restore the issues raised in the instant appeal to the ld. CIT(A) for fresh adjudication on merits and

for passing a speaking order. The assessee is also directed to remain vigilant and compliant to the notices of hearing which are scheduled online and file necessary evidences in support of the grounds of appeal raised before us. Ld. D/R was fair enough in not raising any objection if the issues raised in this instant appeal are restored to ld. CIT(A). Needless to mention that ld. CIT(A) would grant sufficient opportunity to the assessee of being heard.

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

Kolkata, the 15th June, 2022.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Manish Borad]
Accountant Member

Dated: 15.06.2022

Bidhan (P.S.)

Copy of the order forwarded to:

- 1. Manish Kumar Julania, Kumardiha, Neamatpur, Paschim Bardhaman-713 359.***
- 2. ITO, Ward-2(1), Asansol.***
- 3. CIT(A)- National Faceless Appeal Centre (NFAC), Delhi.***
- 4. CIT-***
- 5. CIT(DR), Kolkata Benches, Kolkata.***

True copy

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata