

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

**Before Shri Manish Borad, Accountant Member
&
Shri Sonjoy Sarma, Judicial Member**

**I.T.A. No. 59/KOL/2022
Assessment Year: 2016-2017**

***Gloster Limited,.....Appellant
(Formerly known as Kettlewell Bullen & Co. Ltd.),
21, Strand Road, Kolkata-700001
[PAN: AABCK4197]***

-Vs.-

***Assistant Commissioner of Income Tax,.....Respondent
Circle-4(1), Kolkata,
Aayakar Bhawan, 8th Floor,
P-7, Chowringhee Square,
Kolkata-700069***

Appearances by:

*Shri Amit Gupta, A.R. and Shaily Sanwaria, A.R., for the Appellant
Smt. Ranu Biswas, CIT, D.R., for the Respondent*

Date of concluding the hearing : August 03, 2022
Date of pronouncing the order : August 11, 2022

O R D E R

Per Manish Borad, Accountant Member:-

This appeal at the instance of assessee for assessment year 2016-17 is directed against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 29.11.2021, which is stated to be arisen out of the order under section 143(3) of the Act dated 18.12.2018 framed by Income Tax Officer, Circle-4(1), Kolkata.

2. At the outset, Id. Counsel for the assessee submitted that the Id. CIT(Appeals) has erred in dismissing the Appeal No. CIT(A), Kolkata-2/10368/2018-19 on the basis of the appellant's request made for

withdrawing the Appeal No. CIT(A), Kolkata-2/10042/2020-21 for assessment year 2019-20. It was, therefore, requested that a direction may be given to the ld. CIT(Appeals), NFAC to amend the impugned order so as to dismiss the Appeal No. CIT(A), Kolkata-2/10042/2020-21 and restore the appeal for A.Y. 2016-17 bearing No. CIT(A), Kolkata-2/10368/2018-19. Ld. Counsel for the assessee also referred to the written submission placed on record as well as paper book containing 110 pages filed on 02.08.2022/

3. Per contra, ld. D.R. failed to controvert the submissions made by the ld. counsel for the assessee.

4. We have heard the rival contentions and perused the relevant material placed before us. We find that the assessment for A.Y. 2016-17 was completed on 18.12.2018 under section 143(3) of the Act and the ld. Assessing Officer made various additions/disallowances. The said additions /disallowances were challenged by the assessee before the ld. CIT(Appeals) and the Appeal No. CIT(A), Kolkata-2/10368/2018-19 was filed. This appeal was pending for adjudication. In the meantime, the return filed by the assessee for A.Y. 2019-20 was processed and intimation under section 143(1) dated 04.05.2020 was issued, wherein there was a short grant of TDS amounting to Rs.5,77,350/-. The assessee challenged this issue before the ld. CIT(Appeal), but while filing the appeal for A.Y. 2019-20 due to technical error in place of A.Y. 2019-20, inadvertently A.Y. 2016-17 appeared. Immediately on observing this technical error, the assessee 'e-filed another appeal for A.Y. 2019-20 bearing Appeal No. CIT(A), Kolkata-2/10044/2020-21 and also the appellant through written submission requested to withdraw the Appeal No. CIT(A), Kolkata-2/10042/2020-21, which contained the technical error for wrong assessment year.

5. However, the Id. CIT(Appeals) while disposing of the Appeal No. CIT(A), Kolkata-2/10042/2020-21 wrongly mentioned the Appeal No. for A.Y. 2016-17 i.e. CIT(A), Kolkata-2/10368/2018-19. Due to this mistake, the appeal no. appearing in the impugned order is for A.Y. 2016-17 but in the finding portion, the appeal for A.Y. 2019-20 is dismissed being infructuous since the assessee has withdrawn this appeal and this resulted in wrongly disposing appeal for A.Y. 2016-17.

5. We, therefore, after perusing all the records, are of the considered view that the Id. CIT(Appeals) inadvertently made the mistake by dismissing the appeal for Appeal No. CIT(A), Kolkata-2/10368/2018-19 pertaining to A.Y. 2016-17 in place of the appeal for A.Y. 2019-20 bearing Appeal No. CIT(A), Kolkata-2/10042/2020-21. We, therefore, find merit in the grounds raised by the assessee and direct the Id. CIT(Appeals) to modify the impugned order dated 29.11.2021 by inserting correct Appeal No. i.e. CIT(A), Kolkata-2/10042/2020-21, which deserves to be dismissed as infructuous. We further direct the Id. CIT(Appeals) to restore the Appeal No. CIT(A), Kolkata-2/10368/2018-19 pertaining to A.Y. 2016-17 to its original place and adjudicate the same as per the grounds of appeal raised by the assessee for A.Y. 2016-17.

6. In the result, the appeal of the assessee is allowed for statistical purposes as per the terms mentioned hereinabove.

Order pronounced in the open Court on August 11th, 2022.

**Sd/-
(Sonjoy Sarma)
Judicial Member**

**Sd/-
(Manish Borad)
Accountant Member**

Kolkata, the 11th day of August, 2022

*Copies to : (1) Gloster Limited,
(Formerly known as Kettlewell Bullen & Co. Ltd.),
21, Strand Road, Kolkata-700001*

*(2) Assistant Commissioner of Income Tax,
Circle-4(1), Kolkata,*

***Aayakar Bhawan, 8th Floor,
P-7, Chowringhee Square, Kolkata-700069***

- (3) Commissioner of Income Tax (Appeals), National Faceless
Appeal Centre (NFAC), Delhi,*
- (4) Commissioner of Income Tax- ,*
- (5) The Departmental Representative*
- (6) Guard File*

TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.