

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

Before

SRI MANISH BORAD, ACCOUNTANT MEMBER

I.T.A. No.: 413/Kol/2022

Assessment Year: 2013-14

***Biseswar Pandey*.....*Appellant*
*[PAN: AFKPP 8794 D]***

Vs.

ITO, Ward-24(2), Kolkata*.....*Respondent

Appearances by:

Sh. Somnath Ghosh, Adv., appeared on behalf of the Assessee.

Sh. Biswanath Das, CIT(D/R), appeared on behalf of the Revenue.

Date of concluding the hearing : August 23rd, 2022

Date of pronouncing the order : August 31st, 2022

ORDER

Per Manish Borad, Accountant Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short "AY") 2013-14 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the "Act") by ld. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [in short ld. "CIT(A)"] dated 19.05.2022 arising out of the assessment order framed u/s 147/143(3)/263/144 of the Act dated 06.03.2018.

2. The assessee is in appeal before this Tribunal raising the following grounds:

"1. FOR THAT the Ld. Ld. Commissioner of Income Tax (Appeals), NFAC acted unlawfully in sustaining impugned disallowance of Rs. 9,06,200/- out of purchase debited on the allegation of overstatement

of purchases made by the Ld. Income Tax Officer, Ward 24(2), Hooghly without considering the unexceptionable reconciliation properly which was adduced during the original assessment proceedings and his alleged findings on that behalf are altogether arbitrary, unwarranted, and perverse.

2. FOR THAT the Ld. Commissioner of Income Tax (Appeals) Durgapur gravely erred in upholding the impugned additions made by way of disallowance amounting to Rs. 9,06,200/- made on misconceived illusion by the Ld. Income Tax Officer, Ward 24(2), Hooghly and the adverse finding reached on that behalf on irrelevant considerations not amenable to reason is totally illegal, illegitimate and infirm in law.

3. FOR THAT on a proper conspectus of material on record, preponderance of probabilities and circumstances attending, the specious action of the Ld. Commissioner of Income Tax (Appeals), NFAC in upholding the assumption of the Ld. Income Tax Officer, Ward 24(2), Hooghly of resorting to the impugned disallowance of Rs. 9,06,200/- is based on extraneous parameters not germane to the issue, which is completely unfounded, unjustified, and untenable in law.”

3. On perusal of the grounds raised by the assessee, I find that the solitary grievance is against the disallowance of Rs. 9,06,200/- sustained by ld. CIT(A) which is made by the ld. AO by alleging overstatement of purchases made by the assessee. Brief facts of the case as culled out from the records are that the assessee is an individual engaged in potato trading. Income of Rs. 8,20,589/- disclosed in the return of income filed for AY 2013-14 on 29.09.2013. Assessment u/s 143(3) of the Act was completed on 09.03.2016 accepting the returned income. Thereafter, ld. CIT(A) invoked the revisionary power u/s 263 of the Act and on examining the assessment records, he noticed that the purchases are being overstated to Rs. 9,06,200/- and directed the ld. AO to reframe the assessment order considering this issue. In compliance thereto, ld. AO carried out the assessment proceedings u/s 147 r.w.s.143(3)

r.w.s. 263 r.w.s. 144 of the Act and since the assessee did not appear on the date of hearing, disallowed the purchase of Rs. 9,06,200/- and assessed the income at Rs/ 17,75,625/-.

4. Aggrieved, the assessee filed appeal before the ld. CIT(A) but failed to respond to the notices of hearing fixed by ld. Pr. CIT and, therefore, in absence of any submissions by the assessee, the disallowance made by ld. AO was confirmed and the appeal filed by the assessee was dismissed.

5. Aggrieved, the assessee is in appeal before this Tribunal.

6. Ld. Counsel for the assessee submitted that there is no overstatement of purchases. It is a matter of reconciliation. The assessee has incurred transportation charges of Rs. 9,12,800/- which have been included in the value of total purchases as per the purchase register. It was also stated that the insurance chatai of Rs. 6,600/- was required to be reduced from the purchase as per the purchase register and after carrying out these exercises, the total purchases will come at Rs. 1,95,69,785/- which is same as disclosed in the trading account and, therefore, there is no over statement of purchases. Reference was also made to various documents filed in the paper book.

7. Per contra, ld. D/R vehemently argued supporting the orders of both the lower authorities and also stated that the assessee has not filed any of these details before the lower authorities and the same should be sent back to the ld. AO for necessary verification.

8. I have heard rival contentions and perused the records placed before me. The issue of disallowance of purchases at Rs.

9,06,200/- is raised by the assessee before me. The said disallowance was made by ld. AO on the basis of the direction given by the ld. Pr. CIT in the order u/s 263 of the Act. The reasons for the said disallowance was that as per the purchase register, the assessee is stated to have purchased seeds and other items at Rs. 1,86,63,585/- whereas in the trading and profit & loss account the purchases are shown at Rs. 1,95,69,785/-. There is a difference of Rs. 9,06,200/- which the assessee failed to explain before ld. Pr. CIT during the proceedings u/s 263 of the Act and, thereafter, before both the lower authorities.

9. I, however, on perusal of the details filed before me, find that the books of account of the assessee are audited and necessary details have been furnished before me showing the tax audit report and the schedules annexed thereto. I also note that the assessee has incurred transportation charges at Rs. 9,12,800/- paid to various transporters namely K.F. Farm Pvt. Ltd., Punjab Bengalore Carriers, U.P. Calcutta Goods Carrier and the Nurmahal Public Carriers Operator Union. The assessee is consistently showing the purchases in the trading account after including transportation charges in the purchase cost. As per the purchase register placed at page 9 to 17, the total purchase is at Rs. 1,86,63,585/-, but after including the transportation charges i.e. carriage inward of Rs. 9,12,800/- and reducing the insurance chatai of Rs. 6,600/- which are already included in the purchase bills, the figure of total purchase will arrive at Rs. 1,95,69,785/- which matches with the figure of purchases shown in the audited trading account for the financial year 2012-13 at Rs. 1,95,69,785/-.

10. Thereafter, under these given facts and circumstances, I am of the considered view that on reconciliation of the purchase figure as discussed above, there remains no case of over statement of purchases. I, therefore, set aside the finding of Id. CIT(A) and delete the alleged disallowance of Rs. 9,06,200/- and allow the ground nos. 1, 2 & 3 of the appeal raised by the assessee.

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

Kolkata, the 31st August, 2022.

Sd/-
[Manish Borad]
Accountant Member

Dated: 31.08.2022

Bidhan (P.S.)

Copy of the order forwarded to:

- 1. Biseswar Pandey, C/o. S.N. Ghosh & Associates, Advocates, 2, Garstin Place, 2nd Floor, Suite No. 203, Off Hare Street, Kolkata-700 001.**
- 2. ITO, Ward-24(2), Kolkata.**
3. CIT(A)- NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata