

। आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता ।

IN THE INCOME TAX APPELLATE TRIBUNAL

“B” BENCH, KOLKATA

BEFORE DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER

&

SHRI SONJOY SARMA, HON'BLE JUDICIAL MEMBER

I.T.A. No. 592/Kol/2022

Assessment Year: 2014-15

Mohammad Sharique 64, Mozaffar Ahmed Street Ripon Street Kolkata - 700016 [PAN : BJXPS2070R]	Vs	Income Tax Officer, Ward-32(1), Kolkata
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Purbayan Basu, Advocate
Revenue by :	Shri P.P. Barman, Addl. CIT, D/R

सुनवाई की तारीख/Date of Hearing : 07/12/2022

घोषणा की तारीख /Date of Pronouncement: 09/12/2022

आदेश/ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

The present appeal is directed at the instance of the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter the “Id. CIT(A)”) dt. 15/09/2022, passed u/s 250 of the Income Tax Act, 1961 (“the Act’), for Assessment Year 2014-15.

2. The assessee has raised the following grounds of appeal:-

“1. That in the facts the order u/s 250 passed by the Ld CIT Appeal (NFAC) was wrong, unjustified and contrary to the facts and circumstances of the case. The Ld. CIT erred to confirm the addition of Rs.4175060 without any speaking order on its merit is erroneous, arbitrary and bad in law.

2. The Appellant craves leave to add, alter, modify or delete any grounds at the time of hearing.”

3. At the outset, the Id. Counsel for the assessee stated that various details were filed before the Assessing Officer and also before the Id. CIT(A). In the course hearing before the Id. CIT(A) adjournment was sought, however, the Id. CIT(A) denied adjournment and passed an *ex-parte* order confirming the action of the Assessing Officer. It is, therefore, prayed that one more opportunity may be provided to appear before the Id. CIT(A)

so that the issue can be dealt with on merits considering the evidences filed by the assessee.

4. The Id. D/R, though supported the orders of both the lower authorities, but raised no objection if the issue is restored back to the Id. CIT(A).

5. We have heard both the sides and perused the record placed before us. We notice that the assessee is an individual and declared income of Rs.3,67,200/- in the e-return filed on 14/12/2014, the assessment proceedings were carried out by service of notice u/s 143(2) & 143(1) of the Act. In the assessment order framed u/s 143(3) of the Act, the sole addition was made u/s 69 of the Act at Rs.41,75,061/- which the Id. Assessing Officer arrived at by comparing the balance of sundry creditors for the current year with that of the preceding year and the increased amount of sundry creditors was treated as bogus purchases. There is no specific finding by the Id. Assessing Officer for the particular sundry creditor and the addition has been made by giving a general observation. When the assessee filed the appeal before the Id. CIT(A) and filed completed details of the sundry creditors with their PAN Nos., addresses, copies of bills, ledger accounts and other relevant evidence to prove the genuineness of the purchases made during the year, the Id. CIT(A) failed to examine the same and passed an *ex-parte* order dismissing the assessee's appeal *in-limine* and not adjudicating the issues on merits.

6. Under these facts and circumstances, we observe that reasonable and fair opportunity has not been provided to the assessee and, therefore, in the interest of justice and being fair to both the parties, we restore all the issues raised in the appeal to the Id. CIT(A) for fresh adjudication on merits and

pass a speaking order. We further direct the Id. CIT(A) to adjudicate the issue after considering complete details which have been filed before us in form of a paper book on 30/11/2022 running into 169 pages, in order to explain the genuineness of the purchases made during the year. Needless to mention that adequate opportunity of hearing shall be provided to the assessee and the assessee shall co-operate till disposal of the appeal.

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

Order pronounced in the Court on 9th December, 2022 at Kolkata.

Sd/-
(SONJOY SARMA)
JUDICIAL MEMBER

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

Kolkata, Dated 09/12/2022
**SC Sr.P*

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, अधिकरण अपीलीय आयकर , कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata