

आयकर अपीलीय अधिकरण
मुंबई पीठ“एच”,मुंबई पीठ
श्री विकास अवस्थी, न्यायिक सदस्यएवं
श्री अमरजीत सिंह, लेखाकार सदस्यके समक्ष
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH “H”, MUMBAI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER
आअसं. 2772/मुं/2022 (नि.व. 2017-18)
ITA NO.2772/MUM/2022(A.Y.2017-18)

Kamlesh Manohar Kanungo,
C/o. D.C.Bothra & Co LLP(CA)
(Formerly known as D.C.Bothra & Co.),
297, Tardeo Road, Wille Mansion,
1st Floor, Opp. Bank of India,
Nana Chowk, Mumbai 400 007
PAN: ABBPK-9675-R..... अपीलार्थी/Appellant

बनाम Vs.

DCIT, Central Circle – 1(4),
Room No.902, 9th Floor,
Old CGO Annexe, MK Road,
Mumbai 400 020..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Rajkumar Singh
प्रतिवादी द्वारा/Respondent by : Shri Virabhadra Mahajan
सुनवाई की तिथि/ Date of hearing : 25/01/2023
घोषणा की तिथि/ Date of pronouncement : 31/01/2023

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-47 Mumbai [in short ‘the CIT(A)’] dated 13/09/2022, for the Assessment Year 2017-18.

2. Shri Rajkumar Singh appearing on behalf of the assessee submits that the solitary issue raised in appeal by assessee is rejection of books of account of the assessee/appellant by the Assessing Officer. The assessee carried the issue in appeal before the CIT(A). The CIT(A) without appreciating the facts and documents on record has upheld the findings of Assessing Officer in rejecting books of account. The Id. Authorized Representative for the assessee submits that the assessee had furnished complete set of books including ledger and invoices before the Assessing Officer, however, the Assessing Officer without examining the documents on record has erred in recording the fact that the assessee had furnished incomplete documents. The Id. Authorized Representative for the assessee submits that the assessee had filed complete books including vouchers before the Tribunal in the form of Paper Book. The same documents were furnished before the Assessing Officer and the CIT(A). The Id. Authorized Representative for the assessee prayed for deleting the addition after examining the books.

3. Per contra, Shri Virabhadra Mahajan representing the Department vehemently defended the impugned order. The Id. Departmental Representative submits that the assessee had failed to furnish complete books of account despite repeated opportunities by the Assessing Officer. Since, the books submitted by the assessee were incomplete, the Assessing Officer had no other option except to reject the books and thereafter complete assessment in accordance with the provisions of section 144 of the Income Tax Act, 1961 [in short 'the Act'].

4. Both sides heard, orders of authorities below examined. We find that the Assessing Officer while framing assessment has time and again highlighted

that the assessee has not filed complete set of books. The Assessing Officer has further highlighted certain discrepancies in the document/details furnished by the assessee. The assessee has field three volumes of paper book before the Tribunal. The Id. Authorized Representative for the assessee stated at Bar that these are complete set of books of account of the assessee for the relevant Assessment Year. The Paper Books also includes vouchers. These very documents were purportedly furnished before the Assessing Officer and CIT(A). After taking into consideration entire facts, without commenting on the merits, we deem it appropriate to restore this appeal to the file of Assessing Officer. The Assessing Officer shall make denovo assessment after examining the books of account furnished by the assessee compiled in three volumes of Paper Book furnished before the Tribunal. The Assessing Officer, if so desire may ask the assessee to produce original books/invoices, etc.

5. In the result, impugned order is set aside and appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on Tuesday the 31st day of January, 2023.

Sd/-

(AMARJIT SINGH)

लेखाकार सदस्य/ACCOUNTANT MEMBER

मुंबई/ Mumbai, दिनांक/Dated 31/01/2023

Vm, Sr. PS(O/S)

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/The CIT(A)-
4. आयकर आयुक्तCIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
6. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt.Registrar),
ITAT, Mumbai