

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'सी', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA

Before Shri Sanjay Garg, Judicial Member and Shri Rajesh Kumar, Accountant Member

ITA No.656/Kol/2022
Assessment Year: 2017-18

Sourajit Biswas.....Appellant
23/17, Jessore Road,
Dum Dum,
Kolkata-700028.
[PAN: AHHPB1185H]

vs.

ACIT, Circle-22, Kolkata.....Respondent

Appearances by:

Shri Sauradeep Majumder, AR, appeared on behalf of the appellant.

Shri Vijay Kumar, Addl. CIT, appeared on behalf of the Respondent.

Date of concluding the hearing : March 29, 2023

Date of pronouncing the order : March 29, 2023

ORDER

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 06.09.2022 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. The assessee in this appeal has contested the action of the CIT(A) in estimating commission income/profits from the sale of milk products @8% of the total bank deposits by treating the same as turnover of the assessee.

3. The brief facts of the case are that during the demonetisation period, cash deposits aggregating to Rs.1,63,40,720/- were found deposited in the bank account of the assessee. On being asked to explain

in this respect, the assessee submitted that the assessee was engaged in the business of selling of milk products of Amul. That the aforesaid cash deposits were out of the sale of the mild products which were further paid to Gujrat Cooperative Milk Marketing Federation Limited through bank from the purchase of Amul products on daily basis. However, the Assessing Officer observed that the assessee neither submitted any profit and loss account nor balance sheet or tax audit report along with the return of income or cash book or sale book in support of his claim. He, therefore, treated the aforesaid cash deposits as unexplained investment u/s 69A of the Act and added back the same to the income of the assessee.

4. In the first appeal, the ld. CIT(A) noted that the bank accounts of the assessee, itself, established that the assessee was engaged in the business of selling of milk products of Amul and that the cash deposits were out of cash sales of milk products which were deposited in the bank account to make further payment for the purchase of milk products to the Gujrat Cooperative Milk Marketing Federation Limited. He, however, observed that since the assessee did not furnish the profit and loss account and balance sheet and other documents to arrive at the profit/commission income of the assessee from the aforesaid business, he, therefore, treated the cash deposits of Rs.1,63,40,720/- as turnover of the assessee and estimated the profits @8%.

5. Being aggrieved by the said order of the CIT(A), the assessee has come in appeal before us.

6. At the outset, the ld. counsel for the assessee has submitted that the assessee has already returned the commission income of

Rs.2,76,392/- earned from the sale of Amul products. That the action of the CIT(A), in estimating further the income of the assessee @8% of the cash deposits, was not justified. The ld. counsel for the assessee, in this respect, has relied upon the profit and loss account and balance sheet etc. However, he has admitted that the aforesaid documents were not produced before the lower authorities.

7. Considering the overall facts and circumstances, the matter is restored to the file of the Assessing Officer with a direction to verify the above contention of the assessee. The assessee will furnish the necessary documents such as profit and loss account, balance sheet and other documents to show the income of cash receipt from the sale of milk products and further the outgoing/withdrawal of the amount for purchase of Amul milk products. The Assessing Officer thereafter will verify the contention of the assessee and if, the contention of the assessee is found correct, then no addition will be warranted in this case.

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

Kolkata, the 29th March, 2023.

Sd/-
[Rajesh Kumar]
Accountant Member

Sd/-
[Sanjay Garg]
Judicial Member

Dated: 29.03.2023.

RS

Copy of the order forwarded to:

1. Sourajit Biswas
2. ACIT, Circle-22, Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches