

IN THE INCOME TAX APPELLATE TRIBUNAL, KOLKATA BENCH "SMC", KOLKATA

**BEFORE SHRI SONJOY SARMA, HON'BLE JUDICIAL MEMBER
AND SHRI GIRISH AGRAWAL, HON'BLE ACCOUNTANT MEMBER**

**ITA No.115/Kol/2023
Assessment Year: 2016-17**

Ghatal Co-operative Agriculture And Rural Development Bank Ltd.		ACIT, Circle-38, Midnapur
Vill. Kushpata, P.O. Ghatal, Paschim Medinipur-721212.	Vs.	
PAN: AACAG 0645 G		
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Asim Kumar De, AR
Revenue by : Smt. Ranu Biswas, Addl. CIT, Sr. DR

Date of Hearing : 29.03.2023
Date of Pronouncement : 29.03.2023

ORDER

PER SONJOY SARMA, JM:

This appeal filed by the assessee pertaining to A.Y. 2016-17 is directed against the order of Id. CIT(A) dated 30.03.2022 which is arising out of assessment order framed u/s 143(3) of the I.T. Act dated 12.12.2018. The assessee has taken the following grounds of appeal:

"i. That the assessee has paid a sum of Rs. 20 lakhs during the year as leave encashment. The same amount was deposited with LIC. So the said sum of Rs. 20 lakhs may please be allowed instead of adding back the sum with the assessee. So the said disallowance may please be deleted. We have produced leave encashment certificate of Rs. 20 lakhs with LIC dated 07.11.2016 for the financial year 2015-16 not considered in the assessment order for the reason not known to us.

ii. That provision for gratuity Rs. 30 lakhs were made to LIC and so the same addition may please be deleted. We have produced gratuity paid challan of Rs. 457842/- dated 03.08.2015, Rs. 2,00,000/- dated 21.09.2015 and Rs. 2,00,000/- paid on 15.01.2016, total Rs. 1744218/- not considered for the purpose of allowing gratuity payment for the financial year 2015-16 for the reason not known to us. That all the income arising out of addition is to be exempted u/s 80P(2) of the I.T. Act as because all transactions made herein are with members of the society. So, the entire addition of Rs. 50 lakhs may please be deleted."

2. At the outset, we find that there is a delay of 226 days in filing of the appeal by the assessee. We after perusing the petition for condonation are convinced that the assessee was prevented by sufficient cause from filing the appeal in time and hence delay is condoned and appeal is admitted.

3. At the outset, ld. counsel for the assessee requested that since the assessee did not get any opportunity to file relevant documents as well as submissions before the ld. CIT(A) during the course of hearing before the authority below. Therefore, in such circumstances one more opportunity should be given to the assessee and the issue raised in the instant appeal may be set aside to the file of ld. CIT(A). On the other hand, ld. DR vehemently argued in support of the order passed by the authorities below.

4. We after hearing both the parties under the given facts and circumstances of the case are of the considered view that since the order of the ld. CIT(A) proceeded ex-parte against the assessee and necessary documents were not filed by the assessee before the authority below. We in the interest of justice set aside the impugned order and remit it back to the ld. CIT(A) for deciding the issue raised before us by way of a speaking order. We also direct the assessee to submit the documents to advance its arguments before the authorities below at the time of hearing and doing so, ld. CIT(A) would call a remand report on such issues from the ld. AO on the documents filed by the assessee.

5. We also direct the assessee to remain vigilant in receiving notices of hearing from ld. CIT(A) and should not request for any further adjournment unless otherwise required for reasonable cause. Needless to mention that the assessee should be given proper opportunity of being heard.

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

Order pronounced in the open court on 29.03.2023.

Sd/-
(GIRISH AGRAWAL)
ACCOUNTANT MEMBER

Sd/-
(SONJOY SARMA)
JUDICIAL MEMBER

Copy to:

1. The Appellant: Ghatal Co-operative Agriculture And Rural Development Bank Ltd.
2. The Respondent: ACIT, Circle-38, Midnapur.
3. The CIT, Concerned, Kolkata
4. The CIT (A) Concerned, Kolkata
5. The DR Concerned Bench

//True Copy//

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata