

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

श्री संजय गर्ग, न्यायिक सदस्य एवं श्री मनीष बोरड, लेखा सदस्य के समक्ष
Before Shri Sanjay Garg, Judicial Member and Dr. Manish Borad, Accountant Member

I.T.A No.605/Kol/2022
Assessment year: 2014-15

Bimal Kumar Agarwal.....Appellant
1039, Gandhi Gali,
Fatehpuri, Delhi-110006.
[PAN: ADAPA7127P]

vs.

ITO, Ward-45(1), Kolkata.....Respondent

Appearances by:

Shri Anil Kr. Agrawal, FCA, appeared on behalf of the appellant.

Shri P. P Barman, Addl. CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : February 16, 2023

Date of pronouncing the order : May 01, 2023

आदेश / ORDER

संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 05.09.2022 of the National Faceless Appeal Centre (hereinafter referred to as the 'CIT(A)') passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. The ld. counsel for the assessee has submitted that the issue involved in this appeal is relating to addition made by the Assessing Officer of Rs.56,00,539/- on account of sundry creditors treating the same as bogus and thereby treating the said amount as unexplained cash credits.

3. At the outset, the ld. counsel for the assessee has invited our attention to the impugned order of the Assessing Officer to submit that

the Assessing Officer has noted that despite several opportunities, the assessee had not furnished the details of the sundry creditors for the purpose of verification of identity and creditworthiness of the creditors and the genuineness of the transaction. The ld. counsel has further invited our attention to the paper-book page 5 to 9 to submit that the assessee had duly furnished before the Assessing Officer the list of sundry creditors and their address. That even in one case, the notice served by the Assessing Officer u/s 133(6) of the Act was duly responded by the said sundry creditors namely "Shri Ram Enterprise". The ld. counsel has further submitted the copy of the profit and loss account and balance sheet. The assessee had also furnished the details of purchases and other evidences to prove the identity and creditworthiness of the creditors as well as the genuineness of the transaction. However, the Assessing Officer failed to take note of the various documents and evidences furnished by the assessee. The ld. AR has further invited our attention to the impugned order of the CIT(A) to submit that the ld. CIT(A) has dismissed the appeal of the assessee by one line order stating that the assessee has failed to appear on the date of hearing. The ld. counsel has submitted that both the lower authorities have failed to apply their mind to the submissions made by the assessee. The ld. counsel has therefore requested that the issue may be restored to the file of the Assessing Officer with a direction to verify and consider the details and evidences furnished by the assessee to prove the identity and creditworthiness of the creditors and the genuineness of the transaction.

4. We find force in the above contention of the ld. counsel for the assessee. The assessee has given a certificate and copies of the documents to submit that the same were duly furnished before the

Assessing Officer. We further find that the ld. CIT(A) has dismissed the appeal of the assessee without considering any factual aspect of the case. In view of this, the impugned orders of both the lower authorities are set aside and the matter is restored to the file of the Assessing Officer with a direction to decide the issue afresh. Needless to say that the Assessing Officer will give proper opportunity to the assessee to present his case.

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

Kolkata, the 1st May, 2023.

Sd/-

[डॉक्टर मनीष बोरड /Dr. Manish Borad]

लेखा सदस्य /Accountant Member

Sd/-

[संजय गर्ग /Sanjay Garg]

न्यायिक सदस्य /Judicial Member

Dated: 01.05.2023.

RS

Copy of the order forwarded to:

1. Bimal Kumar Agarwal
2. ITO, Ward-45(1), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches