

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

[Before Dr. Manish Borad, Accountant Member &
Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 774/Kol/2022
Assessment Year : 2018-19

Bijan Behari Biswas	Vs	ITO, Ward-10(3), Kolkata
PAN: ADRPB 4871 C	.	
Appellant		Respondent

Date of Hearing	16.05.2023
Date of Pronouncement	24.05.2023
For the Assessee	Shri G. Banerjee, AR
For the Revenue	Smt. Ranu Biswas, Addl. CIT/DR

ORDER

Per Sonjoy Sarma, JM:

This appeal in ITA No. 774/Kol/2022 for A.Y. 2018-19 is preferred by the assessee against the order of the Commissioner of Income Tax, National Faceless Appeal Centre, Delhi (NFAC) [Ld. CIT in short], dated 12.08.2021. The assessee has raised the following grounds of appeal:

"1. For that in the facts and circumstances of the case and in law, addition of Rs. 13,42,563/- representing wrongly overstated amount of Rs. 6,00,000/- and late payment of employees contribution of provident fund of Rs. 7,42,563/- is wrong, erroneous, misconceived, excessive, arbitrary and should be deleted.

2. For that in the facts and circumstances of the case and in law, the sufficient and adequate opportunity of hearing or representation was not given to the assessee before making the disputed addition, violating norms of natural justice and equity.

3. For that the assessee craves leave to alter, add, amend, moderate, substitute or delete any one or more of the ground or grounds of appeal at any time before or in course of hearing of the appeal."

2. At the time of hearing, ld. counsel for the assessee fairly submitted that the instant issue is covered against the assessee

by the decision of the Hon'ble Supreme Court in the case of Checkmate Services Pvt. Ltd. vs CIT reported in 143 taxmann.com 178 (SC) dated 12.10.2022. However, the ld. counsel pointed out that the impugned addition of Rs. 13,42,563/- made by the CPC is not proper as because while inserting the data by the assessee due to inadvertent mistake, the amount of provident fund contribution of Rs. 63,223/- was wrongly put in the tax audit report as Rs. 6,63,323/-. Due to this reason, the cumulative amount of late deposit of contribution towards PF and due interest thereon and resultantly the addition arrived at Rs. 13,42,563/- in the hands of assessee. However, the correct figure taken into consideration, the disallowance would be restricted to Rs. 7,42,563/- only in the hands of assessee. Therefore, he prayed before this Bench that direction may be issued to the authorities below to restrict the disallowance to the extent of Rs. 7,42,563/- only. On the other hand, ld. DR supported the order passed by the authorities below.

3. We have heard the rival submission of the parties and perused the material available on record including audit report furnished by the assessee to substantiate its claim. While going through the same, he observed that from the set of facts in the case of assessee due to inadvertent mistake, the amount of contribution of PF of Rs. 63,223/- and in subsequent time, assessee had corrected such figure in tax audit report. However, the CPC at the time of processing, the return of assessee u/s 143(1) added the cumulative amount of late deposit contribution along with wrongly inserted figure of Rs. 6,63,323/- and which

resulting to an addition of Rs. 13,42,563/- to the returned income of assessee under the head of business income and the facts of the case, the CPC had taken into consideration the correct figure of assessee, the quantum of claim made by the assessee to the extent of Rs. 7,42,563/- only (Rs. 13,42,563/- - Rs. 6,00,000/-). Therefore, we find that the impugned addition made in the hands of assessee of Rs. 13,42,563/- cannot be sustained as submitted by the assessee and we restricted the disallowance of Rs. 7,42,563/-. In terms of foregoing paragraph, we partly allowed the appeal of the assessee.

4. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open court on 24.05.2023.

Sd/-

Sd/-

(Manish Borad)
Accountant Member

(Sonjoy Sarma)
Judicial Member

Dated: 24.05.2023

Biswajit, Sr. PS

Copy of the order forwarded to:

1. Appellant- Bijan Behari Biswas, CK-175, SEC-II, Salt Lake, Kolkata-700091.
2. Respondent – ITO, Ward-10(3), Kolkata.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata