

। आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता ।
IN THE INCOME TAX APPELLATE TRIBUNAL
“B (SMC)” BENCH, KOLKATA
BEFORE SHRI SANJAY GARG, HON'BLE JUDICIAL MEMBER
&
DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER

I.T.A. No. 315/Kol/2023
Assessment Year: 2017-19

Naiyer Sultan C/o Subash Agarwal & Associates, Advocates Siddha Gibson 1, Gibson Lane Suite-213, 2 nd Floor Kolkata - 700069 [PAN : AUUPS6171N]	Vs	ADIT - CPC, Bangalore, Karnataka
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
Assessee by :	Shri Siddharth Agarwal, Advocate
Revenue by :	Shri P.P. Barman, Addl. CIT, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 22/05/2022
घोषणा की तारीख/Date of Pronouncement : 23/05/2023

आदेश/ORDER

Per Sanjay Garg, Judicial Member:

The present appeal is directed at the instance of the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter the “Id. CIT(A)”) dated 16/02/2023, passed u/s 250 of the Income Tax Act, 1961 (“the Act’), for Assessment Year 2017-18.

2. The sole issue taken by the assessee in this appeal relates to the summary adjustment made by the CPC while processing the return of income u/s 143(1) of the Act and thereby taking the gross receipts of the assessee from job work at Rs.17,01,701/- as income of the assessee instead of net receipts of Rs.1,32,144/- as reflected in the return of income.

2.1. Being aggrieved by the said adjustment made by the CPC assessee preferred appeal before the Id. CIT(A). However, Id. CIT(A) rejected the claim of the assessee observing that the assessee in the return of income did not claim the expenses u/s 57 of the Act. That the assessee straight away claimed the net amount in the return of income whereas the assessee was

supposed to firstly mention the gross income and thereafter the assessee was supposed to claim the expenditure. Because of the said reason, the CPC rightly booked up the gross receipts as income of the assessee.

3. We have heard rival contentions and perused the material available on record.

4. It has been held time and again that the Income-tax Authorities should charge legitimate taxes from the assessees. The assessees should not be burdened with high taxes because of their *bona fide* mistakes. Rather it is the duty of the Income-tax Authorities to help the assessees for the assessment of their correct income. In our view, if there was any *bona fide* mistake or error that occurred while filing of the online return and the CPC had made certain adjustments, the duty was cast upon the CIT(A) to have looked into the matter and assessed the correct income of the assessee. The powers of the CIT(A) are co-terminus with that of the Assessing Officer and in this case, the Id. CIT(A) has failed to exercise the jurisdiction to assess the true and real income of the assessee. In view of this, the matter is restored to the file of the Id. CIT(A) with a direction that the Id. CIT(A) irrespective of any error or indiscrepancies in the Form of the return, would consider the claim of the assessee on merits and allow the assessee the admissible deduction and will assess the correct income of the assessee.

5. With the above observations, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Court on 23rd May, 2023 at Kolkata.

Sd/-

(Manish Borad)
Accountant Member

Kolkata, Dated 23/05/2023

SC S.P.

Sd/-

(Sanjay Garg)
Judicial Member

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, अधिकरण अपीलीय आयकर , कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata