

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

**Before Shri Rajpal Yadav, Vice-President
&
Shri Rajesh Kumar, Accountant Member**

**I.T.A. No. 91/KOL/2023
Assessment Year: 2019-2020**

**Mr. Madhab Goswami,.....Appellant
1/1B, Pottery Road, Kolkata-700015
[PAN: AYBPG3354Q]**

-Vs.-

**Income Tax Officer,.....Respondent
Ward-32(3), Kolkata**

Appearances by:

*Shri S.K. Roy, A.R., appeared on behalf of the assessee
Smt. Ranu Biswas, Addl. CIT, DR, appeared on behalf of
the Revenue*

Date of concluding the hearing : April 27, 2023

Date of pronouncing the order : June 1, 2023

O R D E R

Per Shri Rajpal Yadav, Vice-President (KZ):-

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 20th December, 2022 passed for assessment year 2019-20.

2. Though the assessee has taken eight grounds of appeal, but his grievances revolve around a single issue, namely, ld. CIT(Appeals) has erred in confirming the disallowance of Rs.2,88,503/-.

3. The assessee has filed his return of income under section 139(1) of the Income Tax Act. The case of the assessee is that a sum of Rs.2,80,503/- pertains to IGST. This amount relates to March, 2019 and was required to be paid by 24.04.2019. Therefore, being ascertained liability while filing the return, assessee has claimed it as expenditure. While processing the return of the assessee under section 143(1), ld. Assessing Officer has disallowed this claim of the assessee.

4. Dissatisfied with the addition, assessee carried the matter in appeal and filed written submission, which has been noticed by the ld. 1st Appellate Authority on page no. 3 of the impugned order. The ld. CIT(Appeals) thereafter recorded the following finding:-

“5. Decision: I have considered appellant’s submissions. In this case, the CPC, Bangalore has made adjustment of Rs.2,80,503/- claimed by the appellant as on expenditure under the head IGST. Rectification application u/s 154 was filed, but the same was rejected.

5.1. Now the appellant in the appellate proceeding, has mentioned that Rs. 2,80,503/- is an expenditure under the Head I.G.S.T. and it is under the Head liabilities for expenses and the disallowance is not correct.

- 5.2. *I have gone through the grounds of appeal and statement of facts, filed by the appellant. Debit of Rs. 2,80,503/- under the Head I.G.S.T. is not clear. No details have been given regarding sale/turnover. No details are given on the treatment of I.G.S.T. worth Rs. 2,80,503/- in the PSL account. It will be an allowable expenditure if, it is supported by the documents and evidences of sale/turnover. Here, the appellant has failed to provide any supporting document/evidences.*
- 5.3. *Hence, the rectification on order u/s 154, rejecting the application of the appellant, is sustained and the appeal of the appellant is dismissed”.*

5. With the assistance of ld. Representatives, we have gone through the record carefully. A perusal of the above finding would reveal that the ld. CIT(Appeals) has not assigned any reason for rejecting the contention of the assessee. He simply observed that originally this amount was disallowed to the assessee in a *prima facie* adjustment and thereafter application of the assessee under section 154 has been rejected. The ld. CIT(Appeals) further observed that no details have been given regarding sale/turnover. In other words, he was not sure against which sales, this IGST has been claimed. The ld. CIT(Appeals) observed that it is not clear from the record. If while examining the issue on the basis of the details, the ld. CIT(Appeals) is not clear in his mind about the nature of expenditure, then it cannot be disallowed by the CPC under the artificial intelligence. The assessee has filed application under section 154 explaining the nature. It has thereafter filed written submission before the ld. CIT(Appeals) again explaining

the nature but in a mechanical manner. His submission has been rejected. Therefore, we allow this appeal and delete the disallowance.

6. In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on June 1, 2023.

**Sd/-
(Rajesh Kumar)
Accountant Member**

**Sd/-
(Rajpal Yadav)
Vice-President(KZ)**

Kolkata, the 1st day of June, 2023

*Copies to : (1) Mr. Madhab Goswami,
1/1B, Pottery Road, Kolkata-700015*

*(2) Income Tax Officer,
Ward-32(3), Kolkata*

*(3) Commissioner of Income Tax (Appeals),
National Faceless Appeal Centre (NFAC), Delhi;*

(4) Commissioner of Income Tax ,

(5) The Departmental Representative

(6) Guard File

TRUE COPY

By order

*Assistant Registrar
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.