

आयकर अपीलीय अधिकरण
कोलकाता 'एसएमसी' पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'SMC' BENCH, KOLKATA**

श्री राजपाल यादव, उपाध्यक्ष (कोलकाता क्षेत्र)

एवं

श्री राजेश कुमार, लेखा सदस्य
के समक्ष

Before

SRI RAJPAL YADAV, VICE PRESIDENT

&

SRI RAJESH KUMAR, ACCOUNTANT MEMBER

I.T.A. No.: 403/KOL/2023

Assessment Year: 2019-20

Santi Kumar Oswal.....Appellant
[PAN: AADPO 1870 D]

Vs.

ADIT, CPC, Bengaluru.....Respondent

Appearances by:

Sh. Siddarth Agarwal, Adv., appeared on behalf of the Assessee.

Sh. P.P. Barman, Addl. CIT, Sr. D/R, appeared on behalf of the Revenue.

Date of concluding the hearing : June 7th, 2023

Date of pronouncing the order : June 9th, 2023

ORDER

Per 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 [in short 'Id. CIT(A)'] dated 27.02.2023 passed for assessment year 2019-20.

2. The assessee has taken three grounds of appeal out of which ground no. 1 & 3 are general grounds of appeal which do not call for recording of any specific finding.

3. In ground no. 2, assessee has pleaded that ld. CIT(A) has erred in confirming the addition of Rs. 8,81,938/- which was added by ld. Assessing Officer (in short 'ld. AO') with the aid of Section 43B of the Income Tax Act, 1961 (in short the 'Act'). Ld. AO was of the view that GST was not paid by the assessee within the due date and therefore, it is to be disallowed.

4. Ld. Counsel for the assessee while taking us through the record, carefully submitted that ld. AO has disallowed GST payment of Rs. 8,81,938/- on the ground that this amount was not paid by the assessee. The assessee took the matter in appeal and it was contended that the GST was paid before the due date of filing of the return and therefore, it is to be allowed as deduction. He placed on record copies of challan etc. With the assistance of ld. Representative, we have gone through the record carefully. A perusal of the impugned order of ld. CIT(A) would reveal that there is no head & tail in this order. Ld. first Appellate Authority has not considered these submissions of the assessee in an analytical manner. Therefore, we set aside the order of ld. CIT(A) and remit this issue back to the file of ld. first Appellate Authority with the direction that ld. first Appellate Authority would peruse the challans exhibiting the payment of GST before the due date of filing of the return and in case such a factum is found as true, then, deduction is to be allowed to the assessee. With the above

observation, appeal of the assessee is partly allowed for statistical purposes.

5. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Kolkata, the 9th June, 2023

Sd/-

[Rajesh Kumar]
Accountant Member

Sd/-

[Rajpal Yadav]
Vice-President

Dated: 09.06.2023

Bidhan (P.S.)

Copy of the order forwarded to:

- 1. Santi Kumar Oswal, C/o Subash Agarwal & Associates, Advocates Siddha Gibson, 1, Gibson Lane, Suite 213, 2nd Floor, Kolkata-700 069.**
- 2. ADIT, CPC, Bengaluru.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata