

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

श्री संजय गर्ग, न्यायिक सदस्य एवं श्री गिरीश अग्रवाल, लेखा सदस्य के समक्ष
Before Shri Sanjay Garg, Judicial Member and Shri Girish Agrawal, Accountant Member

I.T.A. No.516/Kol/2023
Assessment Year: 2015-16

Lakshmi Sadho Commercial (P) Ltd.....Appellant
134, Ashutosh Mukherjee Road,
Kolkata-700025.
[PAN: AABCL6120C]

vs.

ITO, Ward-10(2), Kolkata..... Respondent

Appearances by:

Shri Raj Kumar Agarwal, CA, appeared on behalf of the appellant.

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

Date of concluding the hearing : July 10, 2023

Date of pronouncing the order : July 10, 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 26.04.2023 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. At the outset, the ld. counsel for the assessee has 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 stating that the same as not maintainable on the ground that in the appeal form 35, the assessee has mentioned the relevant section under which the Assessing Officer has passed the order as 143(3) of the Act, whereas, the appeal before the CIT(A) was passed against the order of the Assessing Officer u/s 271B of the Act.

3. We have gone through the appeal form 35 and the impugned order of the CIT(A). We find that the defect pointed out by the CIT(A) regarding the wrong mention of section of the order appealed against was a rectifiable defect. A perusal of the appeal form 35 reveals that otherwise, the other details such as date of order, amount of penalty mentioned in the form 35 are correct details, which reveals that the impugned appeal has been filed by the assessee against the order passed by the Assessing Officer u/s 271B of the Act only. In view of this, the ld. CIT(A) has failed to exercise his jurisdiction to decide the appeal on merits. In view of this, the impugned order of the CIT(A) is hereby set aside with the direction to the CIT(A) to give opportunity to the assessee to rectify the defect in Form 35 and thereafter to decide the appeal on merits.

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

Kolkata, the 10th July, 2023.

Sd/-
[गिरीश अग्रवाल /Girish Agrawal]
लेखा सदस्य/Accountant Member

Sd/-
[संजय गर्ग /Sanjay Garg]
न्यायिक सदस्य/Judicial Member

Dated: 10.07.2023.

RS

Copy of the order forwarded to:

1. Lakshmi Sadho Commercial (P) Ltd
2. ITO, Ward-10(2), Kolkata
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches