

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

श्री राजेश कुमार, लेखा सदस्य
एवं

श्री संजय शर्मा, न्यायिक सदस्य
के समक्ष

Before

**SRI RAJESH KUMAR, ACCOUNTANT MEMBER
&
SONJOY SARMA, JUDICIAL MEMBER**

**I.T.A. No.: 480/KOL/2023
Assessment Year: 2020-21**

***Piyush Mohan Agarwal.....Appellant
[PAN: ACMPA 9009 P]***

Vs.

ACIT, Circle-34, Kolkata.....Respondent

Appearances by:

Smt. Puja Somani, CA &

Smt. Neetu Singh, Adv., appeared on behalf of the Assessee.

Sh. Vijay Kumar, Addl. CIT, Sr. DR, appeared on behalf of the Revenue.

Date of concluding the hearing : June 28th, 2023

Date of pronouncing the order : July 13th, 2023

ORDER

Per Rajesh Kumar, Accountant Member:

The assessee is in appeal before the Tribunal against the order of Commissioner of Income Tax (Appeals)-NFAC, Delhi [in short ld. 'CIT(A)'] dated 30.03.2023 passed under section 250 of

the Income Tax Act, 1961 (in short the 'Act') for A.Y. 2020-21. The issue raised by the assessee in the various grounds of appeal is against the order of Ld. CIT(A) not allowing the deduction in respect of exempt income of Rs. 4,84,228/-.

2. Brief facts of the case are that the assessee filed return of income on 30.12.2020 declaring total income of Rs. 28,67,940/- which was processed u/s 143(1) of the Act on 29.11.2021 assessing the income at Rs. 33,52,160/- by making addition of Rs. 4,84,228/-. During the year, the assessee was a partner in three partnership firms and received tax paid profit of Rs. 13,13,724/- comprising Rs. 1,29,137/- from M/s. LGS Boutique Developers LLP and Rs. 11,84,587/- from M/s. Agarwal Holdings. The assessee also reported loss of Rs. 4,24,228/- from M/s. LGS Creation LLP while filing the return. The assessee carried the share of profit from the firms amounting to Rs. 13,13,724/- under the head in Item no. 5 "Schedule 'BP' computation of income from business and profession" (income credited to profit and loss account included in Item no. 1 which is exempt. The assessee also filed Schedule 'EI' which comprised the information regarding partnership firms in which the assessee's firm during the year while filing the Schedule 'EI' giving details of exempt income not to be included in the total income. The assessee in Item no. 4 which titled as "other income" reported the share of profit from partnership firms at Rs. 8,29,496/- (Rs. 11,84,587+Rs.1,29,137/- -Rs. 4,84,228/-). Thus, the assessee has wrongly stated the income from partnership firm as Rs. 8,29,496/- instead of Rs. 13,13,724/- by netting the profits from the losses of the firms resulting into the

difference of Rs. 4,84,228/- which was added to the income by the CPC in the order framed u/s 143(1) of the Acts passed on 29.11.2021.

3. The assessee challenged the said order before Ld. CIT(A) but Ld. CIT(A) also dismissed the appeal by holding that Ld. AO rightly assessed the difference of Rs. 4,84,228/- by way of adjustments made u/s 143(1)(a) of the Act on the basis of return filed by the assessee.

4. After hearing the rival contentions and perusing the material on record, we observe that this is a factual mistake which has occurred inadvertently while punching the income tax return into the I.T. Portal. In our opinion, the assessee deserves to be given credit for tax paid income from partnership firms of Rs. 13,13,724/-, the details thereof has been given herein above in the facts of the case. Accordingly, we set aside the order of Ld. CIT(A) and direct Ld. AO to delete the addition of Rs. 4,84,228/- made in the order passed u/s 143(1) of the Act.

5. Besides, the case of the assessee is covered by the CBDT Circular no. 14 of 1955 dated 11.04.1955 wherein the CBDT has taken a view that "Officers of the Department must not take advantage of ignorance of the assessee about his rights and it is their duty to assist the taxpayer in every reasonable way, particularly in the matter of claiming and securing relief". The case of the assessee also finds support from the decision of the Coordinate Bench namely *Madhavi Nag Vs. ACIT (ITA No.*

512/KOL/2015) wherein the issue is decided in favour of the assessee.

6. In the result, the appeal filed by the assessee is allowed.

Kolkata, the 13th July, 2023.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rajesh Kumar]
Accountant Member

Dated: 13.07.2023

Bidhan (P.S.)

Copy of the order forwarded to:

- 1. Piyush Mohan Agarwal, 404, Lords 7/1 Lord Sinha Road
Kolkata-700 071.**
- 2. ACIT, Circle-34, Kolkata.**
- CIT(A)-NFAC, Delhi.
- CIT-
- CIT(DR), Kolkata Benches, Kolkata.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata