

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

[Before Dr. Manish Borad, Accountant Member &
Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 247/Kol/2023
Assessment Year : 2020-21

Vijaylakshmi Sanganeria	Vs.	ITO, Ward-40(1), Kolkata
PAN: ARTPS 4447 B		
Appellant		Respondent

Date of Hearing	04.07.2023
Date of Pronouncement	25.07.2023
For the Assessee	Shri P.N. Keshari, AR
For the Revenue	Shri Kausik Kumar Das, Addl. CIT

ORDER

Per Sonjoy Sarma, JM:

The present appeal has been preferred by the assessee against the order dated 30.01.2023 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'). The assessee has raised the following grounds of appeal:

1. Central Processing Centre (CPC) has erred in assessing Income from Business at Rs.7,06,009/- in place of Returned income of Rs. 28,623/-. Hence CPC has assessed income of your appellant at a higher amount of Rs. 6,77,386/- (Rs.2,06,842/- plus Rs. 4,70,544/).

2. CPC has assessed Income from other sources of your appellant at Rs. 5,32,752/- as shown in Return filed. However while computing Income from Business CPC has made adjustment of Rs.3,25,910/- from Profit before Tax as per Profit & Loss Account for the year ending 31st March 2020, in place of Rs. 5,32,752/-. This resulted excess assessment of Income From Business by Rs. 2,06,842/- (Rs. 5,32,752/- less Rs. 3,25,910/-).

3. CPC has erred in treating dividend received of-Rs. 4,70,544/- as income of your appellant in intimation passed under section 143(1) as well as in order passed under section 154. However in view of section 10(34) read with section 115 BBDA dividend received Rs.4.70.544/- is exempt income and not to be included in total

taxable income. This mistake CPC resulted in excess Income from Business by Rs. 4,70,544/-. Moreover Ld. C.I.T. (A) has failed to adjudicate this ground taken in appeal before him in order passed u/s. 250 on 30-01-2023 . Because Ld. C.I.T.(A) is totally silent on this issue.

4. Ld. Commissioner of Income Tax (Appeals) has erred in completely ignoring the fact that your appellant has filed the appeal before him against the order passed under section 154 of Income Tax Act. 1961 by CPC Bangalore on 06-04-2022. Instead Ld. C.I.T.(A) has passed order u/s. 250 on 30-01-2023 after considering only the facts and figures of original Return filed u/s.139(1) for A.Y. 2020-21 on 05-05-2021, and totally ignored and not considered the facts and figures of order passed u/s.154 on 06-04-2022.

5. Ld. Commissioner of Income Tax (Appeals) erred in drawing conclusion that regarding the sum of Rs. 8,50,000/- claimed as speculation income, the appellant had shown a sum of Rs.28,623/- only under the head "Speculation Income". Thus according to Ld. C.I.T.(A) there is a short admission of income to the extent of Rs.8,21,377/- (Rs. 8,50,000 less Rs. 28,623), which has been added back by CPC under the head "Profits and Gains of Business or 'Profession ".

6. Ld. C.I.T.(Appeals) erred in drawing conclusion that after allowing set off of carry forward loss of Rs. 1,43,991/-, the net increase in income as per intimation u/s. 143(1) comes to Rs.6,77,386/- (Rs.8,21,377 less Rs. 1,43,991/-), whereas your appellant has not claimed any set off of carry forward loss in the original Return of Income as well as petition filed under section 154 of Income Tax Act. 1961. Because your appellant has no carry forward loss.

7: Your appellant leaver to add, alter, modify, change any ground of appeal on or before date of hearing.”

2. Brief facts of the case are that the assessee filed its return of income for the A.Y. 2020-21 which is in the following manner:

“a. Income from business	Rs. 28,623
b. Income from other sources	<u>Rs. 5,32,752</u>
Less: Deduction u/s 80C	Rs. 1,32,238
Deduction	Rs. 10,000
	<u>Rs. 1,42,238</u>

<i>Total Refund Income</i>	<u><i>Rs. 4,19,137</i></u>
<i>Rounded off</i>	<u><i>Rs. 4,19,140</i></u>
<i>Details of Income Tax Exempt Income</i>	
<i>Dividend received exempt u/s 10(34)</i>	
<i>Read with section 115BBDA</i>	<u><i>Rs. 4,70,544”</i></u>

3. The return filed by the assessee has processed u/s 143(1) of the Act on 08.12.2021 by CPC, Bengaluru by determining the income at Rs. 10,96,520/- by which making a difference income of Rs. 6,77,380/- (Rs. 10,96,520/- - Rs. 4,19,140/-) between the returned income of Rs. 4,19,140/- filed by assessee and total income has arrived u/s 143(1) of the Act at Rs. 10,96,520/- assessed by the CPC. Against the order dated 08.12.2021 passed by CPC, assessee filed a rectification petition u/s 154 of the Act on 14.12.2021 and 05.04.2022. However, income of the assessee computed by CPC u/s 154 vide order dated 06.04.2022 was remained the same as computed u/s 143(1) of the Act by CPC vide order dated 08.12.2021.

4. Dissatisfied with the above rectification order dated 06.04.2022 passed by CPC, Bengaluru assessee preferred an appeal before the Id. CIT(A) where the appeal of the assessee was dismissed on 30.01.2023.

5. Aggrieved by the order of the Id. CIT(A), assessee is in appeal before the Tribunal raising multiple grounds of appeal. However for the sake of convenience, first we have taken up the ground no. 1 to 3 of this appeal together since they are connected to each other. The issues involved in this appeal for

determination before us is that CPC has erred in assessing the income of assessee from business by assessed at Rs. 7,06,009/- in place of returned income of Rs. 28,623/- by enhancing the income of the assessee at higher amount of Rs. 6,77,386/- (Rs. 2,06,842/- + Rs. 4,70,544/-).

6. At the time of hearing, ld. AR stated before the bench that while computation of total income of the assessee for the assessment year 2020-21, assessee had shown income from other sources at Rs. 5,32,752/- and same has been assessed u/s 143(1) vide order dated 08.12.2021 by CPC subsequently a rectification order u/s 154 was also passed on 06.04.2022 on the instance of assessee. However computation of income from business vide annexure of business and profession in the order passed u/s 154 dated 06.04.2022 CPC has deducted in serial no. A(3)(d) of Rs. 3,25,910/- in place of correct figure shown by the assessee at Rs. 5,32,752/- only and resultantly excess charged of income has made in the hands of assessee which arrived at Rs. 2,06,842/- (Rs. 5,32,752/- - Rs. 3,25,910/-) under the head of income from business. Therefore, the ld. AR prayed before the bench so that direction may be given to the AO to rectify the same.

7. Similarly, assessee earned dividend income of Rs. 4,70,544/- during the assessment year 2020-21 by claiming exemption u/s 10(34) r.w.s. 115BBDA of the Act. However, such claim made by the assessee was never allowed by CPC while passing order u/s 154 of the Act and in the exemption column of

the order, it was shown as Nil. Due to this reason, excess charged of income has made in the hands of assessee by Rs. 4,70,544/-. Therefore, he prayed before us so as to further direction may be given to the AO to rectify the mistake as reflected in the order dated 06.04.2022 passed u/s 154 of the Act by the CPC.

8. We after hearing the rival submission of the parties and on perusal of the record, we notice that while passing the order u/s 143(1) as well as rectification order dated 06.04.2022 by CPC has deducted a sum of Rs. 3,25,910/- in place of correct figure shown by the assessee at Rs. 5,32,752/- and due to this reason excess income charged in the hands of assessee at Rs. 2,06,842/- and similarly claim of dividend income of Rs. 4,70,544/- as stated by the assessee as exempted income u/s 10(34) of the Act was never allowed by the CPC while passing order u/s 143(1) and subsequently order passed u/s 154 of the Act vide order dated 06.04.2022 which are the genuine claim of the assessee under the appropriate provisions of law. We, therefore, examining the facts and material available on record and finds that those claims were genuine claims of the assessee which were never considered by the AO. Therefore, we direct the ld. AO to allow the claim of assessee for deduction of Rs. 5,32,752/- under the head of income from business in place of Rs. 3,25,910/- as calculated in the impugned order and similarly we also direct the AO to allow the claim of dividend income of Rs. 4,70,544/- as exempted income u/s 10(34) of the Act to the assessee as CPC did not allow the claim of assessee while

processing its return and subsequently rectification order dated 06.04.2022 u/s 154 of the Act. The remaining grounds of appeal challenged by the assessee are inter connected and consequential in nature, therefore need not required to be adjudicated. Accordingly the appeal of the assessee is hereby allowed in terms of the direction given in the preceding paragraph of this order.

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

Order pronounced in the open court on 25.07.2023.

Sd/-

Sd/-

(Manish Borad)
Accountant Member

(Sonjoy Sarma)
Judicial Member

Dated: 25.07.2023
Biswajit

Copy of the order forwarded to:

1. Appellant- Vijaylakshmi Sanganeria, 11, Crooked Lane, Kolkata-700069.
2. Respondent – ITO, Ward-40(1), Kolkata.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

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By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata