

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

श्री संजय गर्ग, न्यायिक सदस्य एवं श्री मनीष बोरड, लेखा सदस्य के समक्ष
Before Shri Sanjay Garg, Judicial Member and Dr. Manish Borad, Accountant Member

I.T.A Nos.344&345/Kol/2023
Assessment year: 2015-16 & 2016-17

Ajoy Kumar Ghosh.....Appellant
C/o Jain Vinod K & Associates,
41A, AJC Bose Road,
Suite No.613, 6th Floor,
Kolkata-700017.
[PAN: ADGPG6463Q]

vs.

ITO, Ward-2(2), Durgapur.....Respondent

Appearances by:

Shri Vinod Jain, FCA, appeared on behalf of the appellant.

Shri Vijay Kumar, Addl. CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : May 24, 2023

Date of pronouncing the order : July 31, 2023

आदेश / ORDER

संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:

The captioned appeals have been preferred by the assessee against the separate orders both dated 01.02.2023 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'). Since facts and issues involved in both the appeals are identical, hence these have been heard together and are being disposed of by this common order. The assessee's appeal ITA No.344/Kol/2023 is taken as the lead case for the purpose of narration of facts.

2. ITA No.344/Kol/2023 – The assessee in this appeal has taken the following grounds of appeal:

“1. That the Ld. CIT(A)/NFAC erred in law as well as on the fact and in the circumstances to uphold the order of the assessing officer of disallowing Rs. 36,892u/s 80C of the Act.

2. That the Ld. CIT(A)/NFAC erred in law as well as on the fact and in the circumstances to uphold the order of the assessing officer of denying the deduction u/s 80TTA of Rs.10,000 while making the addition of Rs 31,017.

3. That the Ld. CIT(A)/NFAC erred in law as well as on the fact and in the circumstances to uphold the order of the assessing officer of adding subsidy on cooking gas of Rs. 795 when sufficient clarification were made and evidences were produce before him in course of assessment proceeding.

4. Your appellant craves leave to adduce, modify, any ground which may arise in course of appeal proceedings.”

3. Ground No.1 – The assessee vide Ground No.1 has agitated the action of the lower authorities in not allowing the deduction of Rs.36,892/- u/s 80C of Act.

4. The case of the assessee is that the assessee has filed his return u/s 147 r.w.s. 148 of the Act and had claimed deduction of Rs.150000/- u/s 80C of the Act. Though the Assessing Officer allowed the deduction of Rs.103,821/- in respect of contribution towards CPF VPF, Pension fund etc. However, the Assessing Officer denied the deduction of the remaining amount of Rs.36,892/- in respect of allowing insurance premium paid of Rs.47600/-. The ld. counsel has submitted that initially the assessee did not file the insurance premium receipts because the aforesaid payment was reflected in the salary certificate given by the

employer. However, the assessee later on filed the insurance premium receipts but the same have not been considered by the lower authorities.

5. We note that the claim raised by the assessee is a factual claim which can be verified by the Assessing Officer. We, therefore, restore the issue to the file of the Assessing Officer to verify the aforesaid claim of deduction of the assessee and allow the same, if so permissible, as per law.

6. Ground No.2 – The assessee vide Ground No.2 has claimed that in the assessment carried out u/s 147 r.w.s 148 of the Act, the Assessing Officer has made addition of interest income but has denied the deduction u/s 80TTA of the Act of Rs.10,000/-.

7. The aforesaid claim of the assessee being factual and is also verifiable by the Assessing Officer. This issue is also restored to the file of the Assessing Officer with a direction to verify the aforesaid claim and allow the same, if so permissible, as per law.

8. Ground No.3 – Vide Ground No.3, the assessee has raised the issue that the cooking gas subsidy of Rs.795/- was not assessable as income of the assessee as the assessee is an individual and as per the CBDT Circular of 2015 r.w.s. 2(44) and 145(2) of the Act, the same cannot be treated as income of an individual. This issue is also restored to the file of the Assessing Officer to verify the claim of the assessee and decide this issue after considering the submissions of the assessee. This appeal of the assessee is treated as allowed for statistical purposes.

9. Since the facts and issue involved in the assessee's appeal in ITA No.345/Kol/2023 for assessment year 2016-17 are identical, hence, our findings given above will mutatis mutandis apply to the said appeal also.

10. In the result, both the captioned appeals of the assessee are treated as allowed for statistical purposes.

Kolkata, the 31st July, 2023.

Sd/-

[डॉक्टर मनीष बोरड /Dr. Manish Borad]

लेखा सदस्य /Accountant Member

Sd/-

[संजय गर्ग /Sanjay Garg]

न्यायिक सदस्य /Judicial Member

Dated: 31.07.2023.

RS

Copy of the order forwarded to:

1. Ajoy Kumar Ghosh
2. ITO, Ward-2(2), Durgapur
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches