

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH “SMC”, KOLKATA

[Before Shri Rajesh Kumar, Accountant Member &
Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 592/Kol/2023
Assessment Year : 2015-16

Susanta Karati	Vs.	ITO, Ward-30(3), Kolkata
PAN: AGVPK 3630 K		
Appellant		Respondent

Date of Hearing	24.07.2023
Date of Pronouncement	03.08.2023
For the Assessee	Shri Anil Kochar, AR
For the Revenue	Shri Sudip Kumar Bandhyapadhyay, Addl. CIT

ORDER

Per Sonjoy Sarma, JM:

This appeal of the assessee for the assessment year 2015-16 is directed against the order dated 23.05.2023 passed by the Id. Commissioner of Income-tax, Appeals, NFAC, Delhi [hereinafter referred to as ‘the Id. CIT(A)’. The assessee has raised the following grounds of appeal:

“i. That the learned CIT(A) has erred in confirming the order of the AO in completing the assessment by making an addition of Rs. 26,28,000/- on account of undisclosed assets.

ii. That the assessee could not comply with notices in time as he is not conversant with email and could not read all email and he has to depend on his office staff and authorized representative for reading and replying the notices of Income Tax Authority. But AO and the CIT(A) has not considered the assessee’s contention and passed its order in an unjustified manner.

iii. For that the assessee begs leave to add, amend, alter, modify any and/or all grounds at any time before and/or at the time of hearing.”

2. The assessee filed its return of income electronically on 07.09.2015 by declaring a total income of Rs. 23,59,280/-. The case of the assessee was selected under CASS followed by notices u/s 143(2) and 142(1) of the Act and in order to compliance to the notices, ld. AR of the assessee appeared from time to time and furnished various details and papers as asked by the ld. AO during the assessment proceeding. However, the ld. AO after hearing the assessee viewed that from the survey report dated 11.03.2015 assessee had purchased two properties i.e. (i) land at Tarapith, Birbhum, Mouza-Chandipur, P.S. Margram, J.L. No. 62, Khatian 152/20 at Rs. 5,20,000/- and another at ground floor building known as "Nabanna" of 43/1/3, Bholanath Nandy Lane, Howrah-711104 just adjacent to Zaika Bar Cum Restaurant at Rs. 21,08,000/- which were not shown in the accounts of the assessee and treated the same as undisclosed investment therefore added to the income of the assessee as undisclosed assets by determining total income of the assessee at Rs. 49,87,280/-.

3. Dissatisfied with the above order, assessee preferred an appeal before the ld. CIT(A) where the appeal of the assessee was dismissed due to non-filing of any written submission in response to the various notice issued by the ld. CIT(A) from time to time to the assessee.

4. At the time of hearing before this Tribunal, ld. AR submitted that while passing the impugned order, ld. CIT(A) have erred in confirming the order passed by the AO by making the addition of Rs. 26,28,000/- in the hands of assessee on account of undisclosed assets. Further he contended that the alleged property as stated by

the AO and sustaining the order of Id. CIT(A), assessee has in fact produced all the details while filing its return of income along with audit report during the course of assessment proceeding and in support of the same, he produced before us the copy of audit report along with return filed by the assessee and brought to our notice at the balance sheet by showing us in column fixed asset as per note 1. The property namely Nabanna valuation at Rs. 21,08,000/- and another at Tarapith which WDV on 01.04.2014 at Rs. 7,02,523/- with an addition of Rs. 5,20,000/- was made during the F.Y. 2014-15 and total value of the said property comes to Rs. 12,22,523/- on 31.03.2015. Therefore, from the documents placed before us, it is clear that alleged property were reflected in books of account of the assessee. Therefore, such addition need not call for addition in the hands of assessee by the AO. Similarly, at the time of hearing before the Id. CIT(A), assessee could not comply with notices issued by the Id. CIT(A) as assessee was not conversant with e-mail and could not place necessary supported documents in response to such notices issued by Income Tax Authority from time to time, therefore, Id. CIT(A) as well as AO did not consider the contention made by the assessee at the time of hearing of the case. In view of the above reason, Tribunal may be kind enough to allow such documents produced by the assessee in support of its claim.

5. On the other hand, Id. DR vehemently argued and supported the order passed by the authorities below.

6. We after hearing the rival submissions of the parties and considering the material available on record, we find that the alleged addition made by the AO which was sustained by the CIT(A)

in relation with the Tarapith property at Rs. 5,20,000/- and another property at Nabanna at Rs. 28,08,000/- which were in fact shown by the assessee in its books of account by filing return of income and in support of the contention, the assessee produced before us the relevant audit report along with the schedule of fixed assets to prove the fact in his favour. We after examining the various documents placed before us, we find that alleged addition made by the AO and sustained by the Id. CIT(A) were in fact shown in the assessee's balance sheet. Therefore, the addition made by the AO and sustained by Id. CIT(A) is not valid in the eye of law accordingly we direct the AO to delete the addition of two properties (i) land at Tarapith, Birbhum, Mouza-Chandipur, P.S. Margram, J.L. No. 62, Khatian 152/20 at Rs. 5,20,000/- and another at ground floor at the building "Nabanna" of 43/1/3, Bholanath Nandy Lane, Howrah-711104 just adjacent to Zaika Bar Cum Restaurant at Rs. 21,08,000/- in the hands of assessee. In terms of above direction, the appeal of the assessee is allowed.

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

Order pronounced in the open court on 03.08.2023.

Sd/-

Sd/-

(Rajesh Kumar)
Accountant Member

(Sonjoy Sarma)
Judicial Member

Dated: 03.08.2023

Biswajit, Sr. PS

Copy of the order forwarded to:

1. Appellant- Susanta Karati, 33/2, Bholanath Nandi Lane, Howrah-711104.
2. Respondent – ITO, Ward-30(3), Kolkata.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata