

**आयकर अपीलीय अधिकरण, कोलकाता पीठ 'बी', कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "B" 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 No.667/Kol/2023  
Assessment year: 2014-15

Goldburn Commotrade Pvt. Ltd.....Appellant  
8, Amartalla Street, 4<sup>th</sup> Floor,  
Burrabazar, Kolkata-1.  
[PAN: AAACG9668H]

vs.

ITO, Ward-6(1), Kolkata.....Respondent

**Appearances by:**

Shri Manish Tiwari, FCA, appeared on behalf of the appellant.

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

Date of concluding the hearing : September 06, 2023

Date of pronouncing the order : October 18, 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 29.05.2023 of the National Faceless Appeal Centre [(hereinafter referred to as the 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. The assessee in this appeal has taken the following grounds of appeal:

*"1.) That on the facts and in the circumstances of the case, Ld. CIT(A) has erred in dismissing the appellant's appeal on the ground of delay in filing of appeal.*

*2.) That on the facts and in the circumstances of the case, Ld. C.I.T. (A) erred in dismissing appeal without any discussions on the merit of additions/disallowance made by Ld. AO.*

*3.) That on the facts and in the circumstances of the case, Ld. CIT(A) erred in confirming the addition of Rs. 37,64,557/- on account of other payables.*

*4.) That on the facts and in the circumstances of the case, Ld. CIT(A) erred in confirming the addition of Rs. 49,81,044/- on account of mismatch in turnover reported in Audit Report and Income Tax Return.*

*5.) That the appellant craves leave to add, alter, amend or adduce any ground/(s) at or before the date of hearing.”*

3. At the outset, the ld. counsel for the assessee has invited our attention to the above grounds of appeal to submit that there were only two issues on merits. First one is relating to the confirmation of addition made by the Assessing Officer on account of mismatch of turnover in the audit report as compared to the details furnished in the ITR. The second ground is relating to the ad hoc disallowance made by the Assessing Officer @10% in respect of amount shown under the head ‘other payables’.

4. The ld. counsel has further invited our attention to the impugned assessment order to submit that the same is an ex parte order. The ld. counsel has further invited our attention to the impugned order of the CIT(A) to submit that even the ld. CIT(A) has not allowed opportunity to the assessee to present its case on merits. The appeal of the assessee has been dismissed by the CIT(A) as being barred by limitation. The ld. counsel has submitted that the impugned order was passed by the Assessing Officer on 09.12.2016, however, the same was not received by the assessee. He has further submitted that the director of the assessee company at that time was on complete bed rest due to leg injury. Further, that the Chartered Accountant of the assessee company, Mr. Nitesh Agarwal was also sick during the period and therefore, because of the aforesaid reason, the assessee could not look into the fate of his case and resulting into the delay of 152 days in filing the present appeal

which was beyond the control of the assessee. The ld. counsel further referring to the grounds raised on merits has submitted that the Assessing Officer has made the impugned additions without any reasonable basis. The ld. counsel has furnished the required details including audited financial statement and audit report and has submitted that the assessee may be given an opportunity to explain the mismatch of turnover. He has further submitted that even there was no basis for the Assessing Officer to make 10% ad hoc disallowance in respect of 'other payables'. He, therefore, has submitted that in the interests of justice, the assessee may be given an opportunity to explain about the above issues.

5. The ld. DR has been fair enough to admit that in this case, the assessee has not been given proper opportunity to explain about the additions/disallowances made by the Assessing Officer.

6. In view of the above, the impugned order of the CIT(A) is hereby set aside and the matter is restored to the file of the Assessing Officer to decide the aforesaid issues afresh after giving proper opportunity to the assessee to present its case in this respect.

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

***Kolkata, the 18<sup>th</sup> October, 2023.***

Sd/-

[डॉक्टर मनीष बोरड /Dr. Manish Borad]

लेखा सदस्य /Accountant Member

Sd/-

[संजय गर्ग /Sanjay Garg]

न्यायिक सदस्य /Judicial Member

Dated: 18.10.2023.

RS

*Copy of the order forwarded to:*

1. Goldburn Commotrade Pvt. Ltd
2. ITO, Ward-6(1), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches