

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'सी', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "C" 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.415/Kol/2023
Assessment year: 2016-17

Sarita Rathi.....Appellant
Bloc-B, 336 Canal Street,
Shree Bhumi Lake Town,
Kolkata-700048.
[PAN: ADSPR6934R]

vs.

ACIT, Circle-37, Kolkata.....Respondent

Appearances by:

Shri Saumitra Choudhury, Advocate, appeared on behalf of the appellant.
Shri B. K. Singh, JCIT- Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : November 01, 2023

Date of pronouncing the order : November 01, 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 10.03.2023 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. On the facts and in the circumstances of the case and in law the Assessing Officer ('the Commissioner of Income-tax (Appeals)' where an appeal is fled before the Tribunal against the order of Commissioner (Appeals)) erred in adding without referring the submission on 10.03.2023".

2. *"The Appellant prays that the addition / disallowance of Rs.25780 18 made in respect be deleted." For that on the facts and in the circumstances of the case the learned C.I.T(A) has erred in adding, on account of bogus loan u/s 68 of the Income Tax Act, 1961 which is untoward unlawful and liable to be deleted.*

3. *The Appellant prays that the addition / disallowance of Rs.107917|- that on the facts and in the circumstances of the case the learned C.I.T(A) has erred in adding a sum of on account of infructuous interest claim u/s 37 of the Income Tax Act, 1961 which is untoward unlawful and liable to be deleted.*

4. *For that on the facts and circumstances of the case the aforesaid addition made by learned C.I.T(A) should not have been made as a reply is not considered which was sought in the Notice U/s 250 vide DIN: ITBANFAC/F/APL 1/2022-23/1050058705(1) dated 23.02.2023 and the last date of submissions may be furnished on or before 10.03.2023 and the same was replied on 10.03.2023 at 1:41 pm and as per ANNEXURE specified queries to upload bank statement of MANOJ DIGGA, SHYAMAL DAS AND SUPRIYA ENTERPRISES WHERE THE PAYMENT IS REFLECTED.*

5. *"The Appellant craves leave to add, amend, alter vary and/ or withdraw any or all the above grounds of Appeal."*

3. The only issue raised in this appeal is relating to the addition made by the Assessing Officer and further confirmed by the CIT(A) on account of failure of the assessee to prove genuineness of the loan transaction.

4. The Assessing Officer had made the impugned additions in respect of unsecured loans from eight parties. However, the ld. CIT(A) after considering the evidences furnished by the assessee deleted the additions in respect of four parties.

5. The ld. counsel has brought our attention to para 3.5 of the impugned order of the CIT(A) to submit that the ld. CIT(A) has confirmed the addition in respect of four parties observing that the assessee has not furnished the relevant evidences including bank statements to prove the creditworthiness of the creditors and genuineness of the transaction. On the other hand, the ld. counsel for the assessee has submitted that

all the relevant evidences relating to the identity and creditworthiness of the creditors and genuineness of the transaction including bank statements were duly furnished before the Assessing Officer. However, the Assessing Officer failed to properly appreciate the same. The ld. counsel further referring to the paper-book has submitted that even the ld. CIT(A) has also failed to take note of the evidences furnished by the assessee while confirming the aforesaid additions in respect of four parties.

6. The ld. DR, on the other hand, has submitted that since the assessee could not furnish the relevant bank statements and other documents, therefore, the lower authorities were justified in making the impugned additions.

7. After considering the rival submissions, we are of the view that the relevant evidences furnished by the assessee have not been discussed by the CIT(A) in the impugned order. The impugned order of the CIT(A) is, therefore, set aside and the matter is restored to the file of the CIT(A) to consider the evidences and explanations furnished by the assessee and thereafter to decide the issue afresh in accordance with law.

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

Kolkata, the 1st November, 2023.

Sd/-

[डॉक्टर मनीष बोराड /Dr. Manish Borad]

लेखा सदस्य /Accountant Member

Sd/-

[संजय गर्ग /Sanjay Garg]

न्यायिक सदस्य /Judicial Member

Dated: 01.11.2023.

RS

Copy of the order forwarded to:

- 1 Sarita Rathi
2. ACIT, Circle-37, Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches