

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'ए', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "A" 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.391&318/Kol/2023
Assessment year: 2015-16

Sukumar Chowdhury.....Appellant
Srinagar, Chandrakona,
Paschim Medinipur -721242
[PAN: ACFPC9625C]

vs.

ITO, Ward-38(1), Medinipur.....Respondent

Appearances by:

Shri S. P. Datta, AR, appeared on behalf of the appellant.

Smt. Madhumita Das, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : November 20, 2023

Date of pronouncing the order : November 20, 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 dated 21.02.2023 & 03.02.2023 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'). ITA 318/Kol/2023 is relating to the assessment order framed u/s 144 of the Act, whereas, ITA No.391/Kol/2023 is relating to the penalty levied u/s 271B of the Act. Since, both the appeals are pertaining to the same assessee, hence, the same have been heard together and are being disposed of by this common order.

2. Earlier, these appeals of the assessee were decided vide order dated 4th July 2023. However, the assessee thereafter filed a M.A No.49/Kol/2023 stating therein that the issue involved in these appeals

had not been adjudicated by the Tribunal, rather, that the facts/issues discussed related to appeal of some other assessee. In view of the this, the M.A of the assessee was allowed vide order dated 08.08.2023 and the order dated 4th July 2023 was recalled and the appeals of the assessee were directed to be restored at their original number.

3. Vide ITA No.318/Kol/2023, the assessee has contested the confirmation of addition made by the CIT(A) of Rs.22,76,48/- on account of enhancement of the gross turnover, whereas, in ITA No.391/Kol/2023, the assessee has contested the confirmation of the levy of penalty u/s 271B of the Act.

4. It has been brought on record that the ld. CIT(A) has dismissed the appeal of the assessee bearing ITA No.318/Kol/2023 being barred by limitation. The assessee had duly filed an affidavit, wherein, it has been deposed that the assessee could not file the appeal in time before the CIT(A) due to his illness. It has also been brought on record that the levy of penalty u/s 271B is the outcome of the order of the CIT(A) in quantum appeal bearing ITA No.318/Kol/2023.

5. In view of above and considering the affidavit of the assessee along with the medical certificate, we find that the delay in filing the appeal before the CIT(A) was not intentional but due to incapacity of the assessee due to illness. We, therefore, set aside the order of the CIT(A) and condone the delay in filing the appeal before the CIT(A). Both the appeals are restored to the file of the CIT(A) for decision afresh. Needless to say that the ld. CIT(A) will decide the appeals of the assessee on merits. The delay in filing the appeal, if any, before the CIT(A) stands condoned.

6. In the result, both the appeals are treated as allowed for statistical purposes.

Kolkata, the 20th November, 2023.

Sd/-

[डॉक्टर मनीष बोरड /Dr. Manish Borad]
लेखा सदस्य /Accountant Member

Sd/-

[संजय गर्ग /Sanjay Garg]
न्यायिक सदस्य /Judicial Member

Dated: 20.11.2023.

RS

Copy of the order forwarded to:

1. Sukumar Chowdhury
2. ITO, Ward-38(1), Medinipur
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches