

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC': NEW DELHI
BEFORE,
SHRI M. BALAGANESH, ACCOUNTANT MEMBER
ITA No.2829/Del/2023
(ASSESSMENT YEAR 2021-22)**

S.K. Beri & Brothers A-119, Okhla Industrial Area, Phase-II, Tehkhand, Okhla Industrial Estate, S.O. South East Delhi Delhi-110 020 PAN-AAAFS 9369L	Vs.	Income Tax Officer Ward-48(1) New Delhi
(Appellant)		(Respondent)

Assessee by	Sh. Nitin Chaudhry, CA and Sh. Ajay Kumar Sharma, Adv.
Department by	Sh. Om Parkash, Sr. DR

Date of Hearing	18/01/2024
Date of Pronouncement	23/01/2024

ORDER

This appeal of the Assessee arises out of the order of the Learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Ld. CIT(A)'] in DIN & Order No. ITBA/NFAC/S/250/2023-24/10555043737(1) dated 10/08/2023 against the order passed by CPC, (hereinafter referred to as the 'Ld. AO') u/s 143(1) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') on 02/11/2022.

2. The only issue to be decided in this appeal is as to whether the ld. CIT(A) was justified in confirming the addition made in the sum of Rs 16,36,499/- in the facts and circumstances of the case.

3. I have heard the rival submissions and perused the materials available on record. The assessee is a partnership firm engaged in the business of manufacturing and job work of industrial knives, blades, rolls and machinery parts. The return of income for the Asst Year 2021-22 was filed by the assessee on 19.2.2022 declaring business loss of Rs 3,73,229/-. A sum of Rs 16,36,499/- representing contribution to PF and ESI was wrongly shown in the return under the relevant column attributable to section 44BBA. Factually there was no income derived by the assessee in terms of section 44BBA of the Act. It is a fact that the provisions of section 44BBA of the Act are not at all applicable to the assessee herein. It was submitted that the assessee had disclosed an amount of Rs 16,36,499/- as deemed income u/s 44BBA of the Act in Schedule BP in S.No. A-4a(vi) of the Income Tax Return and has reduced the income as per profit and loss account by that amount. However, the effect of this inadvertent error was nullified in the Income Tax Return itself by adding the same amount of Rs 16,36,499/- in S. No. 36(vi) of Schedule BP. However, while processing the return u/s 143(1) of the Act, the ld. CPC did not reduce this sum of Rs 16,36,499/- as was done in the Income Tax Return by the assessee. The assessee gave a reply to the CPC which is enclosed in pages 125 and 126 of the Paper Book, which was not considered by the CPC. The ld. CIT(A) merely rejected the plea of the assessee on the ground that the assessee should have filed revised return u/s 139(5) of the Act if there was any error or omission in the Income Tax Return. Considering the fact that the assessee had

voluntarily disallowed the Employer contribution to PF and ESI amounting to Rs 16,36,499/- in the computation of total income which is enclosed in Page 182 of the Paper Book, I hold that merely because there is a some figure mentioned in the wrong column in Income Tax Return alone, would not result in any enhancement of income to the assessee. I hold both the lower authorities had not appreciated the facts properly. I deem it fit and appropriate to restore this appeal to the file of Id. AO qua the issue in dispute for denovo adjudication in accordance with law. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

4. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 23rd January, 2024.

Sd/-

(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 23/01/2024

Pk/sps

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI