

आयकर अपीलीय अधिकरण  
कोलकाता 'एसएमसी' पीठ, कोलकाता में  
IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'SMC' BENCH, KOLKATA

श्री राजपाल यादव, उपाध्यक्ष (कोलकाता क्षेत्र)  
एवं  
श्री गिरीश अग्रवाल, लेखा सदस्य  
के समक्ष

Before  
SRI RAJPAL YADAV, VICE PRESIDENT  
&  
SRI GIRISH AGRAWAL, ACCOUNTANT MEMBER

I.T.A. No.: 1202/KOL/2023  
Assessment Year: 2016-17

**Smt. Sunita Devi Chhajer.....Appellant**  
**[PAN: ACEPC 5843 P]**

**Vs.**

**ITO, Ward-3(1), Suri, Birbhum.....Respondent**

**Appearances:**

**Assessee represented by:** Sh. Akkal Dudhwewala, A/R.

**Department represented by:** Sh. Avijit Adhikari, JCIT.

Date of concluding the hearing : January 11<sup>th</sup>, 2024

Date of pronouncing the order : January 22<sup>nd</sup>, 2024

**ORDER**

**Per Rajpal Yadav, Vice-President (KZ):**

The assessee is in appeal before the Tribunal against the order of the Commissioner of Income Tax (Appeals), NFAC, Delhi [in short ld. 'CIT(A)'] dated 15.09.2023 passed for AY 2016-17.

2. The assessee has taken four grounds of appeal; out of that ground no. 4 is a general ground which does not call for recording of any specific finding.
3. In ground no. 1, the assessee has pleaded that ld. CIT(A) has erred in dismissing the appeal *ex-parte*.

4. In ground nos. 2 & 3, the assessee has pleaded that ld. CIT(A) has erred in confirming the addition made by the Assessing Officer (in short ld. 'AO') amounting to Rs. 33,27,375/- and also action of the AO, vide which he estimated a sum of Rs. 99,821/- which ought to have been incurred by the assessee for arranging this claim of Rs. 33,27,375/-.

5. The brief facts of the case are that the assessee has filed her return of income u/s 139(1) of the Act declaring total income at Rs. 3,91,050/-. The ld. AO has reopened the assessment by recording reasons which are available on page no. 1 & 2 of the impugned assessment order. He issued a notice u/s 148 of the Act on 31.03.2021. In brief, case of the AO is that the assessee has sold 5,000 shares of M/s. Appu Marketing and Manufacturing Ltd. for a consideration of Rs. 32,65,322/- and claimed exemption u/s 10(38) of the Act. In an *ex-parte* assessment order he disallowed this claim.

6. The appeal to the ld. CIT(A) did not bring any relief to the assessee.

7. Before us, ld. Counsel for the assessee submitted that financial affairs of the assessee are being managed by her husband Sh. Narendra Kumar Chhajer who at the age of 64 expired when the assessment order was in progress. The ld. AO has passed the assessment order on 07.03.2022 and he died on 05.04.2022. The assessee is not possessing all the material and she has been collecting the material from tax consultants etc. He prayed that one more opportunity of hearing be granted to the assessee.

8. On the other hand, ld. D/R relied on the order of the AO.

9. We have duly considered the rival contentions and gone through the death certificate of Sh. Narendra Kumar Chhajer. It is almost near to the assessment date and it was quite difficult for the assessee to make submissions before the AO *qua* an assessment year 2016-17. The Department has started the enquiry at the fag end i.e. reopened on 31.03.2021 and notice u/s 142(1) of the Act was issued on 10.01.2022. The assessee might not be in a possession of all the material which was required to be filed before the first appellate authority and therefore, considering this fact, we deem it proper

to give one more opportunity to the assessee. Both the orders are set aside and proceedings are relegated to the AO. Ld. AO shall re-adjudicate the issue. The assessee is at liberty to submit any detail before the AO including point out defects in reopening. The AO shall dispose off the objections of the assessee, if any, filed on reopening. In view of the above, the appeal of the assessee is allowed for statistical purposes.

10. In the result, the appeal filed by the assessee is allowed for statistical purposes.

**Kolkata, the 22<sup>nd</sup> January, 2024.**

Sd/-

**[Girish Agrawal]**

Accountant Member

Sd/-

**[Rajpal Yadav]**

Vice-President

Dated: 22.01.2024

*Bidhan (P.S.)*

*Copy of the order forwarded to:*

- 1. Smt. Sunita Devi Chhajer, Sonapatty, Sainthia, Birbhum-731 234.**
- 2. ITO, Ward-3(1), Suri, Birbhum.**
- CIT(A)-NFAC, Delhi.
- CIT-
- CIT(DR), Kolkata Benches, Kolkata.

*//True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata