

**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA
BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER
AND SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.920/Kol/2023
Assessment Year: 2017-18**

Subhamoy Ghosh 3B, Shakespeare Sarani, Kolkata- 700071, West Bengal (PAN: ACVPG9442M)	Vs.	CIT(A), NFAC, Delhi
(Appellant)		(Respondent)

Present for:

Appellant by : Shri Amit Maharia, AR

Respondent by : Shri B. K. Singh, JCIT, Sr. DR

Date of Hearing : 01.02.2024

Date of Pronouncement : 07.02.2024

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of Ld.CIT(A), National Faceless Appeal Centre (NFAC), Delhi, vide order No. ITBA/NFAC/S/250/2023-24/1054148674(1) dated 05.07.2023 passed against the Assessment order by AO, CPC u/s.147 r.w.s. 144 r.w.s. 144B of the Income-tax Act, 1961 (hereinafter referred to as the "Act"), dated 31.03.2022 for AY 2017-18.

2. In the present appeal, assessee has raised as many as seven grounds of appeal. The moot point before us from these grounds of appeal is in respect of dismissal of appeal by Ld. CIT(A) by holding that assessee failed to remove the deficiency resulting into non-admission of the appeal filed by the assessee in view of provisions contained in section 249(4) of the Act. Thus, holding appeal being not

maintainable on account of deficiency noted as, “*tax on returned income not paid/particulars of payment not mentioned.*”

2.1. In this respect, from the perusal of order of Ld. CIT(A), we observe that Ld. CIT(A) upon verification of Form 35 filed by the assessee, had noted the aforesaid deficiency which was intimated to the assessee. The deficiency pertained to tax on returned income not paid/particulars of payment not mentioned. However, assessee failed to remove the deficiency pointed to him. According to the Ld. CIT(A), the appeal filed by the assessee could not be admitted as it was not maintainable u/s. 249(4) and was thus dismissed.

2.2. On a specific query by the Bench to the Ld. Counsel for the assessee, for deposit of tax on the returned income, it was pointed out by the Ld. Counsel that assessee had deposited the required tax vide two challans, first being of Rs.17,00,000/- deposited with ICICI Bank on 30.04.2022 with challan Sl. No. 62108, second challan of Rs.1,19,250/- was deposited with State Bank of India on 30.04.2022 with challan no. 16743. Copies of these challans are placed in the paper book at pages 40 and 41.

3. It is worth noting the fact that these challans have been deposited prior to the disposal of appeal by the Ld. CIT(A) vide order dated 05.07.2023. The fact of depositing of challan by the assessee is not controverted by the revenue. Accordingly, in the interest of justice and fair play, we find it proper to remit the matter back to the file of Ld. CIT(A) since the deficiency pointed out by him has now been removed. Ld. CIT(A) is directed to take up the matter meritoriously by passing a speaking order after taking into consideration the submissions and explanations furnished by the assessee. Needless to say that assessee be given reasonable opportunity of being heard to

represent its case. Accordingly, appeal of the assessee is allowed for statistical purposes.

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

Order is pronounced in the open court on 07th February, 2024

Sd/-
(Sanjay Garg)
Judicial Member

Sd/-
(Girish Agrawal)
Accountant Member

Dated: 07th February, 2024

JD, Sr. P.S.

Copy to:

1. The Appellant:
 2. The Respondent.
 3. ITO, NFAC, Delhi
 4. CIT
 5. DR, ITAT, Kolkata Bench, Kolkata
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By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata