

आयकर अपीलिय अधिकरण, कोलकाता पीठ “ए”, कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH: KOLKATA
श्री राजेश कुमार, लेखा सदस्य एवं श्री संजय शर्मा न्यायिक सदस्य के समक्ष
[Before Shri Rajesh Kumar, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 1221/Kol/2023
Assessment Year: 2012-13

Ambereen Islam (PAN: AAKPI 3448 Q)	Vs.	ACIT, Circle-40, Kolkata
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	06.03.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	05.04.2024
For the Appellant/ निर्धारिती की ओर से	Shri Manoj Kataruka, Advocate
For the Respondent/ राजस्व की ओर से	Shri B. K. Singh, JCIT, Sr. D.R

ORDER / आदेश

Per Rajesh Kumar, AM:

This is an appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)"] dated 25.08.2023 for the AY 2012-13.

2. The only issue raised by the assessee in the various grounds of appeal is against the confirmation of addition of Rs. 44,99,906/- as made by AO by making disallowance u/s 40a(ia) of the Act for non-deduction of tax at source on fabrication charges.

3. Facts in brief are that the assessee filed return of income on 22.03.2013 declaring total income of Rs. 21,56,250/- which was processed u/s 143(1) of the Act. Thereafter the case of the assessee was selected for scrutiny under CASS and statutory notices were duly issued and served upon the assessee. During the course of assessment proceedings the assessee was asked to produce the details of fabrication charges with supporting documents along with details of TDS deduction at source. The assessee submitted before the AO during the year the assessee has deducted TDS at source on the total payments of Rs. 11,57,600/- which are comprised in the fabrication charges. The AO accordingly, after deducting Rs. 11,57,600/- from fabrication charges of Rs. 56,57,506/-, added Rs. 44,99,906/- u/s 40a(ia) for non-deduction of tax.

4. In the appellate proceedings, the Ld. CIT(A) dismissed the appeal of the assessee by ignoring the submissions of the assessee as extracted in page no. 4 that there was no requirement of tax at source as the expenditure were incurred under the relevant provision of Act.

5. After hearing the rival contentions and perusing the material on record we find that the assessee is a manufacturer and exporter of leather goods and during the year had paid/incurred fabrication charges of Rs. 56,57,506/- which were paid to (300 parties) labourers /different parties as fabrication charges We note that the assessee has deducted tax at source on the aggregate payments of Rs. 11,57,600/- which were exceeding Rs. 30,000/- and TDS was duly deducted and also deposited in the Govt. Treasury while in respect of remaining of Rs. 44,99,906/- where the individual payments were below Rs. 30,000/- or below 1,00,000/- in aggregate during the year and therefore no TDS was liable to be deducted in the said payments. The counsel for the assessee has produced before us the comprehensive details along with bills and vouchers corroborating his averments. Therefore in our opinion the addition as made by the AO and sustained by the Id CIT(A) is uncalled for. Accordingly we set aside the order of Ld. CIT(A) and direct the AO to delete the addition.

6. The additional ground raised by the assessee is not pressed at the time of hearing. Therefore the same is dismissed as not pressed.

7. In the result appeal of the assessee is allowed.

Order is pronounced in the open court on 5th April, 2024

Sd/-

Sd/-

(Sonjoy Sarma /संजय शर्मा)

(Rajesh Kumar/राजेश कुमार)

Judicial Member/न्यायिक सदस्य

Accountant Member/लेखा सदस्य

Dated: 5th April, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Ambereen Islam, 1B, Pankaj Mallick Sarani, P.S.-Ballygaunge, Kolkata-700019.
2. Respondent – ACIT, Circle-40, Kolkata
3. Ld. CIT(A)-NFAC, Delhi
4. Ld. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata