

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'बी', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH KOLKATA

श्री संजय गर्ग, न्यायिक सदस्य एवं श्री गिरीश अग्रवाल, लेखा सदस्य के समक्ष
Before Shri Sanjay Garg, Judicial Member and Shri Girish Agrawal, Accountant Member

I.T.A. No.1359/Kol/2023
Assessment Year : 2018-19

Punit Popat.....Appellant
C/o Subash Agarwal &
Associates, Advocates,
Siddha Gibson,
1, Gibson Lane, Suite 213,
2nd Floor, Kolkata- 7000069.
[PAN: AFLPP3320E]

vs.

ITO, NFAC, Delhi..... Respondent

Appearances by:

Shri Siddharth Agarwal, AR, appeared on behalf of the appellant.

Shri Pradip Biswas, Addl. CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : February 08, 2024

Date of pronouncing the order : April 29, 2024

आदेश / ORDER

संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 11.10.2023 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. The assessee in this appeal has taken the following grounds of appeal:

"1 For that the Ld. CIT(A) was not justified in passing the order ex parte without affording reasonable opportunity of hearing.

2. For that the Ld. CIT(A) was not justified in confirming the action of the AO in denying the deduction claimed by the assessee of Rs. 4,38,673/- on account of interest of housing loan u/s 24(b) of the Act.

3. For that the Ld. CIT(A) was not justified in confirming the action of the AO in disallowing the business loss to the tune of Rs. 17,26,428/- on the ground that the assessee is not engaged in any business activity during the year.

4. For that the Ld. CIT(A) was not justified in confirming the action of the AO in disallowing the indexed cost of acquisition to the tune of Rs.97,53,262/- under the head Long Term Capital Gain.

5. For that the Ld. CIT(A) was not justified in confirming the action of the AO in denying the deduction claimed by the assessee of Rs.1,35,32,070/- under the head Income from other sources u/s 57 of the Act.

6. For that the Ld. CIT(A) was not justified in confirming the action of the AO in denying deduction claimed by the assessee to the tune of Rs. 1,70,539/- u/s 80C, 80TTA and 80D made by the AO, CPC while processing the return.

7. For that the Ld. CIT(A) was not justified in confirming the action of the AO in making addition of Rs. 2,430/- on account exempt income claimed by the assessee u/s 10(32) of the Act.

8. The appellant craves leave to add further grounds of appeal or alter the grounds at the time of hearing.”

3. At the outset, the ld. counsel for the assessee has submitted that in this case both the orders of the lower authorities i.e. assessment order as well as order of the CIT(A) are ex parte orders. An affidavit has been placed on file by the assessee, Shri Punit Popat, wherein, it has been deposed that during the course of assessment proceedings, the compliance of initial notice issued by the Assessing Officer was made by the assessee but later on compliance could not be made due to covid pandemic. It has been further explained that even the appeal of the assessee has been dismissed by the CIT(A) ex parte of the assessee for want of prosecution. It has been deposed in the affidavit that no physical notice was received by the assessee from the CIT(A). That the notice might have been issued on email which was not accessed to by the assessee and therefore, the assessee was not in the knowledge of

the date of hearing before the CIT(A) resulting into the aforesaid ex parte order of the CIT(A). The ld. counsel has submitted that the absence/non-compliance before the lower authorities was not intentional but due to aforesaid facts and circumstances.

4. The ld. DR, on the other hand, has relied upon the orders of the lower authorities.

5. After considering the rival submissions, we are of the view that the interests of justice will be well-served if the assessee is given opportunity to present his case before the Assessing Officer. Accordingly, the impugned order of the CIT(A) is set aside and the matter is restored to the file of the Assessing Officer for de novo assessment.

6. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Kolkata, the 29th April, 2024.

Sd/-

[गिरीश अग्रवाल /Girish Agrawal]
लेखा सदस्य/Accountant Member

Sd/-

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

Dated: 29.04.2024.

RS

Copy of the order forwarded to:

1. Punit Popat
2. ITO, NFAC, Delhi
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

I.T.A. No.1359/Kol/2023
Assessment Year : 2018-19
Punit Popat

//True copy//

By order

Assistant Registrar, Kolkata Benches