

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

डॉ. मनीष बोराड, लेखा सदस्य
एवं
श्री प्रदीप कुमार चौबे, न्यायिक सदस्य
के समक्ष

Before

**DR. MANISH BORAD, ACCOUNTANT MEMBER
&
PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER**

**I.T.A. No.: 201/KOL/2024
Assessment Year: 2021-22**

***Mogulkata Tea Company Pvt. Ltd.....Appellant
[PAN: AAJCM 0730 B]***

Vs.

DCIT, Circle-4(1), Kolkata.....Respondent

Appearances:

Assessee represented by: Manoj Kataruka, Adv.

Department represented by: Monalisa Pal Mukherjee, JCIT.

Date of concluding the hearing : April 15th, 2024

Date of pronouncing the order : May 8th, 2024

ORDER

Per Manish Borad, Accountant Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2021-22 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by Commissioner of Income Tax (Appeals)-NFAC, Delhi [in

short ld. 'CIT(A)'] dated 26.07.2023 which is arising out of the assessment order framed u/s 143(1) of the Act dated 01.07.2022.

2. Registry has informed that the appeal is time barred by 130 days. At the outset, ld. Counsel for the assessee submitted explaining the reasons for the delay in filing the appeals. After perusing the same, we find force in the reasons mentioned therein and are satisfied that the assessee was prevented for reasonable cause in filing the instant appeal within statutory time limit. We, therefore, condone the delay and admit the appeal for adjudication.

3. The assessee has raised the following grounds of appeal:

“1. That on the facts and in the circumstances of the case, the action of the CIT(A) in upholding the action of the Assessing Officer in making addition of Rs.2,70,188/- on account of deemed income u/s 41 is contrary to the material evidences on record and the addition made is bad in law.

2. That on the facts and in the circumstances of the case, the action of the CIT(A) to uphold the action of the Assessing Officer to make an addition/adjustment of Rs.2,70,188/- in the order passed u/s 143(1) is erroneous, arbitrary and excessive and bad in law.

3. That the assessment framed by the Assessing Officer and upheld by the CIT(A) is arbitrary, excessive and illegal.

4. That the above grounds of appeal shall be argued in detail at the time of hearing and the appellant craves leave to submit, add, alter, modify, amend any grounds of appeal or submit any additional grounds of appeal at or before the time of hearing.”

4. At the outset, ld. Counsel for the assessee submitted that the alleged addition is a double addition as the assessee has already offered the alleged sum to income and is duly reflected in its audited financial statement.

5. On the other hand, ld. D/R stated that the assessee had not filed necessary details about the amount written off u/s 41(1) of the Act during the course of hearing before the lower authorities.

6. We have heard rival contentions and perused the records placed before us. We observe that the assessee is a private limited company and it furnished its income tax return for AY 2021-22 on 15.02.2022 declaring total income at Rs. 1,15,500/- which was subsequently revised on 09.02.2022. Tax Audit Report u/s 44AB of the Act was also submitted online and the Tax Audit report the copy of which is placed at paperbook from page 5 to 27, in column 25 of Form 3CD attached to Ta Audit Report, the auditor has mentioned the amount of profit chargeable to tax u/s 41(1) of the Act and has mentioned the names of 13 parties with the amount which totals to Rs. 2,70,189.38. Based on such observation in the Tax Audit Report, the CPC while processing the return u/s 143(1)(a) of the Act has made an addition u/s 41(1) of the Act at Rs. 2,70,188/-

7. We on perusal of the audited financial statement observe that in the balance sheet under the head "Miscellaneous receipts" (paperbook page 13) a total amount is mentioned at Rs. 3,79,245/- . The miscellaneous receipts is shown under the head "Other income" and therefore, the net profit for the year arrived at after including the miscellaneous receipts. Further, the bifurcation of miscellaneous receipts is given at page 29 of the paperbook and it inter alia includes sundry balances written off at Rs. 2,70,189.38. We thus, find merit in the contention of ld. CIT(A) and we are of the considered view that alleged sum of Rs. 2,70,188/- has already

been offered to tax by the assessee and the action of the CPC u/s 143(1)(a) of the Act has resulted in double addition. We, therefore, delete the impugned addition of Rs. 2,70,188/- made u/s 41(1) of the Act, set aside the finding of the lower authorities and allow the grounds raised by the assessee.

8. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open Court on 8th May, 2024.

Sd/-
[Pradip Kumar Choubey]
Judicial Member

Sd/-
[Manish Borad]
Accountant Member

Dated: 08.05.2024

Bidhan (P.S.)

Copy of the order forwarded to:

- 1. Mogulkata Tea Company Pvt. Ltd., 240B, AJC Bose Road, 2nd Floor, Kolkata-700 020.**
- 2. DCIT, Circle-4(1), Kolkata.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata