

**THE INCOME TAX APPELLATE TRIBUNAL,
'B' BENCH, KOLKATA**

**Before Shri Rajpal Yadav, Vice-President (KZ)
&
Dr. Manish Borad, Accountant Member**

**I.T.A. No. 930/KOL/2023
Assessment Year: 2017-2018**

***M/s. Samudragarh Handloom Handicraft
Artisans Welfare Association,.....Appellant
Samudragarh Rail Bazar,
Nasaratpur, Kalna,
Bardhaman-713519, West Bengal
[PAN:AALTS4856M]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-2(1), Bardhaman,
Aayakar Bhawan & Annexe,
Court Compound,
Kachari Road, Burdwan-713101, West Bengal***

Appearances by:

*Shri Manoj Kataruka, A.R., appeared on behalf of the
assessee*

*Shri P.P. Barman, Addl. CIT, Sr. D.R., appeared on
behalf of the Revenue*

Date of concluding the hearing: May 13, 2024

Date of pronouncing the order: May 14, 2024

O R D E R

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

The assessee is in appeal before the Tribunal against the order of ld. Commissioner of Income Tax (Appeals), National

Faceless Appeal Centre (NFAC), Delhi dated 27.07.2022 passed for A.Y. 2017-18.

2. The assessee has taken four grounds of appeal and thereafter took two additional grounds of appeal. First we deal with additional grounds of appeal.

3. In the additional grounds of appeal, the assessee has pleaded that ld. CIT(Appeals) has erred in upholding the assessment order, which was passed without issue of 143(2) notice.

4. The ld. CIT(Appeals) has erred in upholding the assessment order, which was passed without generating Document Identification Number. However, at the time of hearing, ld. Counsel for the assessee did not press these legal grounds of appeal, hence they are rejected.

5. In Grounds No. 1 to 4, the solitary grievance of the assessee is that ld. CIT(Appeals) has erred in confirming the addition of Rs.1,34,97,469/-, which was made by the ld. Assessing Officer with the aid of Section 69A of the Income Tax Act.

6. Brief facts of the case are that the assessee did not file its return of income under section 139(1) of the Income Tax Act. The ld. Assessing Officer has observed that he has got an information from the database of AIMS Module in ITBA exhibiting the fact that the assessee has made cash deposit of Rs.12,58,500/- in its Bank

account with UCO Bank. Therefore, he had issued notice under section 142(1) inviting the assessee to file its return of income. The ld. Assessing Officer thereafter observed that the assessee failed to furnish the return before the due date mentioned in the notice, i.e. 31.12.2017. The ld. Assessing Officer thereafter took the assessment proceeding according to his best judgment as contemplated in section 144(1) of the Income Tax Act. He reproduced a table exhibiting the amounts deposited in the Bank account of the assessee from 01.04.2016 to 31.03.2017. There was a total deposit of Rs.1,34,97,469/-, out of that Rs.32,19,969/- was through account payee cheque and the balance was deposited in cash. He further observed that during demonetization period, the assessee has made deposit of Rs.12,58,500/- and post-demonetization as well as pre-demonetization, it has deposited Rs.37,00,000/- and Rs.53,19,000/- respectively. The ld. Assessing Officer has made an addition of Rs.1,34,97,469/- as unexplained asset under section 69A.

7. Appeal to the ld. CIT(Appeals) did not bring any relief to the assessee.

8. Before the Tribunal, the assessee has filed an application under Rule 29 of the Income Tax Appellate Tribunal Rules for permission to adduce additional evidences. It has been pleaded in the application that the assessee is a Welfare Association of Handloom Handicraft Artisans. It has been purchasing the material through banking channel, which was distributed

amongst the Artisans and sales were made in cash. Those sale proceeds were deposited in the Bank account. Therefore, the addition *qua* the total sale proceeds is not justifiable. To buttress this contention, ld. Counsel for the assessee has filed copy of the Profit & Loss Account, copy of the Bank Book, Cash Book, Ledger, Bank Statement, Copy of Form No. 26AS, Copy of Registration of Societies, Copies of sample bills of purchase & sales etc. He prayed that these evidences be admitted and issue be remitted back to the file of ld. Assessing Officer for fresh examination.

9. On the other hand, ld. Sr. D.R. has submitted that this appeal is on the Board since last many months. In the past, the assessee has never raised this plea, rather raised all plausible legal issues and when Department collected all the information and submitted before the Bench, then, ld. Counsel for the assessee did not press those preliminary issues. The ld. Counsel has come up with a new plea and grounds. Therefore, assessee should not be permitted to raise different pleas altogether new one, which were not available before the ld. Assessing Officer.

10. We have duly considered the rival contentions and gone through the record carefully. No doubt Rule 29 of the Income Tax Appellate Tribunal Rules do not permit any party to the appeal to produce additional evidence as a matter of right but it authorizes the Tribunal to take on any evidence on record, which may help it to decide an appeal justifiably. Considering the above aspect, we find that the assessee was little negligent at the level of assessment proceeding, but the punishment is quite

disproportionate in the shape of tax liability to that negligence. Considering a group of marginalized section of the Society being Welfare Association of Handloom Handicraft Artisans, we deem it appropriate to exercise our discretion in favour of the assessee for entertaining the additional evidences. We are of the opinion that ends of justice will meet if we set aside both the impugned orders and relegated this issue to the file of Id. Assessing Officer for fresh adjudication. The assessee will be at liberty to submit not only the evidences sought to be produced before the Tribunal but any other evidence in support of its defence. The observations made by us will not impair or injure the case of the Assessing Officer and will not cause any prejudice to the defence/explanation of the assessee on the merits of the issues. The Id. Assessing Officer is directed to provide due opportunity of hearing to the assessee before re-adjudicating the issues.

11. With the above observations, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 14/05/2024.

Sd/-

(Manish Borad)
Accountant Member

Kolkata, the 14th day of May, 2024

Sd/-

(Rajpal Yadav)
Vice-President (KZ)

*Copies to :(1) M/s. Samudragarh Handloom Handicraft
Artisans Welfare Association,
Samudragarh Rail Bazar,
Nasaratpur, Kalna,
Bardhaman-713519, West Bengal*

(2) *Income Tax Officer,
Ward-2(1), Bardhaman,
Aayakar Bhawan & Annexe,
Court Compound,
Kachari Road, Burdwan-713101, West Bengal
;*

(3) *Commissioner of Income Tax (Appeals),
National Faceless Appeal Centre (NFAC), Delhi;*

(4) *CIT- , Kolkata*

(5) *The Departmental Representative;*

(6) *Guard File
TRUE COPY*

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.