

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'C', KOLKATA

[Before Dr. Manish Borad, Accountant Member &
Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 478/Kol/2024
Assessment Year : 2017-18

Shri Bidhya Chal Prasad	vs	ITO, Ward-3(1), Gangtok
PAN: AUFPP 7360 K		
Appellant		Respondent

Date of Hearing	10.06.2024
Date of Pronouncement	19.06.2024
For the Assessee	S.K. Pransukha, AR
For the Revenue	Bonnine Debbarma, JCIT, Sr. DR

ORDER

Per Sonjoy Sarma, JM:

The present appeal is directed at the instance of the assessee against the order of the National Faceless Appeal Centre [hereinafter the "ld. CIT(A)"] dated 01.12.2023 passed u/s 250 of the Income Tax Act, 1961 ("the Act") for the Assessment Year 2017-18.

2. At the outset, we find that there is a delay of 39 days in filing of the appeal by the assessee. We after perusing the petition for condonation are convinced that the assessee was prevented by sufficient cause from filing the appeal in time and hence delay is condoned and appeal is admitted.

3. Brief facts of the case are that assessee is an individual residing at Sikkim. The case of the assessee has been selected under Operation Clean Money (OCM) for A.Y. 2017-18 as the assessee had deposited substantial cash in his bank accounts during the demonetization period but has not filed return of income for the assessment year in question. The ld. AO noticed

that assessee has deposited substantial amount of cash of Rs. 18,93,000/- during demonetization period. However, in response to the notice no one turned up before the AO. Therefore, the ld. AO had forced to pass an ex-parte order u/s 144 of the I.T. Act making an addition of Rs. 1,40,43,000/- in the hands of assessee.

4. Dissatisfied with the order of ld. AO assessee went in appeal before the ld. CIT(A) where the appeal of the assessee was dismissed.

5. Aggrieved by the order of ld. CIT(A), assessee is in appeal before the Tribunal. The ld. AR in order to substantiate its claim filed a paper book containing various details like bank statement, cash book, ledger cash summary, bank summary and cash deposit chart before the bench. Therefore, he prayed before the bench that assessee may be given another opportunity to file those documents before the authorities below in order to prove its case.

6. On the other hand, ld. DR has not raised any objection to the prayer made by AR of the assessee.

7. We after hearing the rival submission of the parties and perused the material available on record find that both the orders of authorities below passed were ex-parte and assessee could not submit the necessary documents in order to substantiate its claim. Therefore, in the interest of justice and fair play to both the parties, it is necessary to remand back the

whole issue to the file of AO with the direction to re-examine the issue afresh after considering the necessary documents filed by the assessee before him.

8. Doing so necessary opportunity of being heard should be given to the assessee. The assessee is also directed to appear before the AO as and when notice issued from the AO. In terms of the above, the appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 19.06.2024.

Sd/-

Sd/-

(Dr. Manish Borad)
Accountant Member

(Sonjoy Sarma)
Judicial Member

Dated: 19.06.2024
Biswajit, Sr. PS

Copy of the order forwarded to:

1. Appellant- Shri Bidhya Chal Prasad, Rhenock Bazar Rongli, Rhenock East, Sikkim-737133.
2. Respondent – ITO, Ward-3(1), Gangtok.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata