

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

Before Shri Sanjay Garg, Judicial Member and Shri Sanjay Awasthi, Accountant Member

I.T.A. No.1332/Kol/2023
Assessment Year: 2017-18

Rajat Bhandari.....Appellant
10B, Paramount,
25, Ballygunge Circular
Road, Kolkata -700019.
[PAN: AFUPB9602E]

vs.

ITO, Ward-62(3), Kolkata..... Respondent

Appearances by:

Shri Abhishak Bansal, CA, appeared on behalf of the appellant.

Shri Sallong Yaden, Addl. CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : May 14, 2024

Date of pronouncing the order : July 23, 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 20.11.2023 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. The assessee in this appeal is aggrieved by the action of the Id. CIT(A) in confirming the addition made by the Assessing Officer of Rs.24,19,646/- on account of disallowance of miscellaneous expenditure claimed by the assessee in the return of income.

3. The Assessing Officer disallowed the aforesaid amount on account of miscellaneous expenditure observing that the assessee had failed to

provide the necessary details and evidences relating to the aforesaid claim of miscellaneous expenditure.

4. Before the Id. CIT(A), it was submitted that the aforesaid expenditure was not miscellaneous expenditure, rather, it was relating to the business of the assessee. That even the receipts shown as 'income from other sources' were, in fact, sale proceeds of the assessee. However, the Id. CIT(A) also dismissed the appeal of the assessee for want of supporting documentary evidences/vouchers etc.

5. Being aggrieved by the said order of the Id. CIT(A), the assessee has come in appeal before us. The Id. counsel for the assessee has made the following submissions:

"The Assessee is an individual and derives income from salary and other sources. The Assessee has filed its return of Income u/s 139 of the Income Tax Act 1961 for AY 2017-18 on 28/03/2018 showing returned Income/(Loss) as NIL. Subsequently the case of the assessee is selected under CASS for Limited Scrutiny having reason of Scrutiny "as deduction against income from other sources" and accordingly issued notice u/s 143(2) on 13.08.2018 which were duly served and complied with. Thereafter the Id. AO have issued notices) u/s 142(1) from time to time which were also duly complied with by the assessee.

The assessee in its submission before the Ld. AO and also in the Statement of Facts before the CIT(A) stated that:

- 1. The Assessee is an individual and derives income from salary, business/profession and other sources.*
- 2. The assessee had started a small business of household materials wherein he bought some goods and sold it to various customers.*
- 3. In a short time span, some family dispute erupted after his fathers death.*
- 4. The assessee was going through lots of pressure and stress due to its family dispute and thus he abruptly stopped the business and sold all the goods with huge losses.*
- 5. While filing the return of income, the tax practitioner got somehow confused and made an Inadvertent mistake, that since the business was done for a small span of time the income/(loss) from the same will be*

treated as Income from other sources and Therefore he filed Income Tax Return Form-2 (ITR 2) i.e. applicable "For Individuals and HUFs not carrying out business or profession under any proprietorship".

6. The Tax practitioner, While filing the return of Income, Shown Sale of products as MISCELLANEOUS RECEIPT (Rs. 1865057/-) and The Purchase Expenses along with Other Expenses amounting Rs.25,81,367/- Shown as "MISCELLANEOUS EXPENSES" in DEDUCTIONS UNDER SECTION 57 under the head "Income from other sources"

7. However the Ld. AO have completed the assessment on 18.12.2019 thereby making disallowance of miscellaneous expenses of Rs.24,19,650/- and accepted the Miscellaneous Receipt amounting Rs.1865057/- and Miscellaneous expenses amounting Rs. 1,57,992/-.

In view of the above, it is an admitted fact that the assessee is engaged in the business of Household products. As such the Disallowance of MISCELLANEOUS EXPENSES amounting Rs. 24,19,650/- is factually incorrect and merely based on surmises and conjunctures."

6. On the other hand, the ld. DR has relied upon the findings of the lower authorities.

7. We have heard the rival submissions and perused the materials available on record. The ld. AR, as per the above reproduced submissions, has contended that in this case the tax practitioner of the assessee has inadvertently shown the business receipt as 'income from other sources' and the entire expenditure incurred towards purchases has been shown as 'miscellaneous expenditure' and owing to the aforesaid inadvertent mistake, the assessee has been burdened with the impugned additions. In our view, the interests of justice will be well-served if the assessee is given an opportunity to explain the aforesaid contentions before the Assessing Officer, which will be subject to verification by the Assessing Officer. In view of this, the impugned order of the ld. CIT(A) is set aside and the matter is restored to the file of the Assessing Officer for de novo assessment.

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

Kolkata, the 23rd July, 2024.

Sd/-

[Sanjay Awasthi]

लेखा सदस्य/Accountant Member

Sd/-

[Sanjay Garg]

न्यायिक सदस्य/Judicial Member

Dated: 23.07.2024.

RS

Copy of the order forwarded to:

1. Rajat Bhandari
2. ITO, Ward-62(3), Kolkata
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches