

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH KOLKATA

**SHRI SONJOY SARMA, JUDICIAL MEMBER
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No. 687/Kol/2024
Assessment Year: 2020-21**

**Prashant Jaiswal,
121/4V/1B, Maniktala Main Road,
Kolkata - 54
[PAN: AMTPJ9685K] Appellant**

vs.

**Assistant Director of Income Tax,
CPC, Bengaluru Respondent**

Appearances by:

Assessee represented by : Shri Prashant Jaiswal, C.A.

Department represented by : Shri Raman Garg, Addl. CIT

Date of concluding the hearing : June 26, 2024

Date of pronouncing the order : July 15, 2024

ORDER

Per Shri Sonjoy Sarma, Judicial Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2020-21 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by the Commissioner of Income-tax (Appeals), Gwalior, dated 21.02.2024 arising out of intimation dated 12.10.2021, under Section 143(1) of the Act.

2. Brief facts of the case are that the Assessee is an individual filed its return of income for the Assessment Year 2020-21 by declaring total income of Rs.

4,96,850/- and after filing of the said return of income intimation under Section 143(1) of the Act was issued by the Ld. AO where he did not consider the claim of assessee in respect of share of profit from partnership firm which is exempted under Section 10(2A) of the Act of Rs. 11,31,629/- as claimed by the Assessee due to which the income of the assessee increased to the extent of Rs. 11,71,269/-. Aggrieved by the above order, Assessee went in appeal before Ld. CIT(A) where the appeal of the Assessee was dismissed without considering the merits of the case, since assessee had failed to appear before the Ld. CIT(A) and the appeal of the Assessee was dismissed. Dissatisfied with the above order, the Assessee is in appeal before this Tribunal stating the various grounds of appeal. However, the main grievance of the Assessee is relating to disallowance of share profit of partnership firm amounting to Rs. 11,71,629/- which is exempt under Section 10(2A) of the Act, which was not considered by the AO as well as the CIT(A) while passing the impugned order. The Ld. AR in order to substantiate its claim furnished the copy of ITR-3 by showing the details of the income from partnership firm i.e. Desai Haribhakti and Co. along with details of PAN No. AACFD3614K. Ld. AR also brought to our notice that intimation under Section 143(1) of the Act, the Assessee has duly claimed the shares of profit from firm of Rs. 11,71,629/-. However, the Ld. AO, CPC without assigning any reasons disallowed the claim of the Assessee under Section 143(1) of the Act. Therefore, the claim of the Assessee needed to be allowed by this Tribunal by setting aside the impugned order by allowing the claim of the assessee.

3. On the other hand, the Ld. DR supported the order of the authorities below. However, he could not controvert the fact as stated by Authorised Representative for the Assessee. We have heard both the parties and perused the material available on record. We find that the exempt income claimed by the Assessee earned from share profit from partnership firm is amounting to Rs. 11,71,629/- which is allowable under Section 10(2A) of the Act. Therefore, the view taken by both the authorities below was not correct on the issue

involved in the appeal. We after perusing the material available on record and examining the facts of the case, we find that alleged addition made by A.O. as well as sustaining the order of A.O. by Ld. CIT(A) is not correct. Accordingly, we direct the A.O. to allow the claim of assessee as claimed under Section 10(2A) of the Act of Rs. 11,71,629/- as on exempt income. Since, we allowed the claim of the Assessee, therefore, levy of the interest under Section 234A, 234B, 234C ad 234F does not arise and as such consequential addition are also hereby deleted.

4. In the result, the appeal of the Assessee is allowed.

Kolkata, the 15th July, 2024.

Sd/-
[Rakesh Mishra]
Accountant Member

Sd/-
[Sonjoy Sarma]
Judicial Member

Dated: 15.07.2024.
Alindra, PS

Copy of the order forwarded to:

1. Prashant Jaiswal
2. Assistant Director of Income Tax, CPC, Bengaluru
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches