

आयकर अपीलीय अधिकरण, कोलकाता पीठ “ए”, कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH: KOLKATA
श्री राजपाल यादव, उपाध्यक्ष एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष
[Before Shri Rajpal Yadav, Vice-President & Shri Rajesh Kumar, Accountant Member]

I.T.A. No. 1386/Kol/2023
Assessment Year: 2016-17

Santanu Gangopadhyay (PAN: ADIPH 4515 F)	Vs.	ACIT, Circle-23(1), Hooghly
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	07.08.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	07.08.2024
For the Appellant/ निर्धारिती की ओर से	Shri Somnath Ghosh, Advocate
For the Respondent/ राजस्व की ओर से	Shri Manoj Kumar Pati, Addl. CIT

ORDER / आदेश

Per Rajesh Kumar, AM:

This is the appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)”) dated 29.11.2023 for the AY 2016-17.

2. The common issue raised in the various grounds of appeal by the assessee is against the confirmation of addition of Rs. 1,01,25,448/- by the Ld. CIT(A) as made by the AO by invoking the provisions of Section 68 of the Act.

3. Facts in brief are that the assessee filed the return of income for the impugned assessment year on 17.10.2016 declaring total income of Rs. 46,61,720/-. The assessee was engaged in medical profession and derived income from there besides income from other source during the impugned financial year. The case of the assessee was selected for limited scrutiny under CASS for the reasons that the assessee has made huge deposits of cash into his bank account. During the year the assessee has shown total professional receipt of Rs. 53,55,530/- whereas as per table -2 at page no. 2 and 3 of assessment order, the assessee has eight bank accounts in all and in IDBI bank account no. 262104000008426 the assessee has deposited of Rs. 1,51,91,0000/- in cash. Further in para 3.1.3 the AO noted that the assessee has maintained one more bank account in the IOB account no. 216001000000841, Chandannagar Branch and a sum of Rs. 97,590/- was deposited in cash. According to AO, the aggregate deposits of cash was Rs. 1,52,88,590/- (Rs. 1,51,91,000/- + Rs. 97,590/-) whereas other gross deposits come to Rs. 1,92,382.97/-(Rs. 1,20,398.97+71,984). While gross receipts as per his letter dated 24.07.2017 were Rs. 67,38,330/- as against Rs. 53,55,530/- shown in the return of income. Accordingly the AO issued show cause notice to the assessee to explain the same. However the same was not replied and finally the AO added the difference of Rs. 1,01,25,442.97/- to the income of the assessee as unexplained cash credit in the assessment framed.

4. In the appellate proceedings, the Ld. CIT(A) dismissed the appeal of the assessee ex-parte in limine without discussing the issue on merit when the assessee failed to appear upon the various dates on which the appeal was fixed for hearing.

5. After hearing the rival contentions and perusing the material on record, we find that undisputedly the assessee has deposited cash into his bank account particularly with the IDBI Bank account no. 262104000008426. As per the AO the cash deposited in IDBI bank as stated above was Rs. 1,51,91,000/- which was disputed by the assessee and it was stated before us that the correct amount was Rs. 1,15,91,000/-. Besides the assessee has also disputed before us the account mentioned in para 3.1.3 at page no. 3 of assessment order does not to him but in fact belonged to his mother-in-

law which was also added to the income of the assessee on wrong appreciation of facts. Thus we note that the assessee had not furnished the required documents/information and source of deposits before the AO either in the assessment proceedings or in the appellate proceedings before the Ld. CIT(A). At the time of hearing the counsel of the assessee submitted before the bench that the AO has grossly erred in stating that in IDBI Bank account no. 262104000008426 a cash of Rs. 1,51,91,000/- was deposited whereas as a matter of fact only Rs. 1,15,91,000/- was deposited while the IOB account no. 216001000000841 was not belonging to the assessee but to the mother-in-law of the assessee. The copies of the ledger accounts and bank statements are available in the paper book. In our opinion, these are factual mistakes which were pointed out by the assessee before us and need to be examined at the level of AO. Under these facts and circumstances, we are of the view that ends of justice would be met if the assessee is given one more opportunity to explain the source of cash and also correct amount of cash deposited into his bank account. Accordingly, in the interest of justice and fair play, we restore the appeal to the file of AO with the direction to decide the same after examining the evidences which may be furnished by the assessee in support of his claim.

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

Order is pronounced in the open court on 7th August, 2024

Sd/-

Sd/-

(Rajpal Yadav /राजपाल यादव)

Vice-President/उपाध्यक्ष

(Rajesh Kumar/राजेश कुमार)

Accountant Member/लेखा सदस्य

Dated: 7th August, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Santanu Gangopadhyay, C/o, S.N. Ghosh & Associates, Advocates,
2, Garstin Place, 2nd Floor, Suite No. 203, Off Hare Street, Kolkata-700001.
2. Respondent – ACIT, Circle-23(1), Hooghly
3. Ld. CIT(A)-NFAC , Delhi
4. Ld. PCIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata