

आयकर अपीलीय अधिकरण
कोलकाता 'बी' पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'B' BENCH, KOLKATA**

डॉ. मनीष बोर्ड, लेखा सदस्य
एवं
श्री प्रदीप कुमार चौबे, न्यायिक सदस्य
के समक्ष
Before

**DR. MANISH BORAD, ACCOUNTANT MEMBER
&
PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER**

**I.T.A. Nos.: 729 & 730/KOL/2024
Assessment Years: 2018-19**

***Basu Pharmaceuticals.....Appellant
[PAN: AADFB 3098 C]***

Vs.

ITO, Ward-22(2), Kolkata.....Respondent

Appearances:

Assessee represented by: Sunil Surana, AR.

Department represented by: P.P. Barman, Addl. CIT, Sr. DR.

Date of concluding the hearing : July 3rd, 2024

Date of pronouncing the order : August 14th, 2024

ORDER

Per Pradip Kumar Choubey, Judicial Member:

Both the appeals filed by the assessee pertaining to the Assessment Year (in short 'AY') 2018-19 are directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by Id. Commissioner of Income-tax (Appeal)-NFAC, Delhi [in short Id. 'CIT(A)'] dated 08.02.2024 arising out of the assessment order framed u/s 143(3)/143(3A)/143(3B) of the Act.

1.1. The brief facts of the case of the appellant are that the appellant being a partnership firm carrying wholesale medicine business, return of income for the AY 2018-19 was filed declaring total income of Rs. Of Rs. 1,14,49,898/-. The said return was processed u/s 143(1) of the Act wherein total income was

assessed at the rate of Rs. 1,96,70,656/- by making addition of Rs. 82,20,758/- to the total income. Against the said order, the appellant had filed rectification application u/s 154 of the Act and before passing any order u/s 154 of the Act the case was selected for scrutiny for the assessment and assessment was passed u/s 143(3) of the Act vide order dated 24.02.2021 computing total income of Rs. 1,97,18,060/-. The assessee has filed an appeal before the Id. CIT(A) wherein also appeal of the assessee has been dismissed and as well as appeal filed dated 13.08.2019 has also been treated as dismissed. Being aggrieved and dissatisfied with the impugned order the present two appeals have been preferred for the same issue.

1.2. Id. Counsel for the assessee challenges the impugned order thereby submitting that appellant being a partnership firm carrying the wholesale business of trading in medicine since long. The Id. A/R submits that addition of Rs. 82,20,758/- was made on account of disallowance of expenditure indicated in the audit report but not taken into account in computing the total income. It has been argued that due to the typographical mistake done by the auditor in the audit report the amount which has been added in the total income in amount in admissible column. Id. A/R submits that in fact it was only a typographical mistake done by the auditor in the audit report and the same could not be done before Id. CIT(A) also. The Id. Counsel for the assessee submits that Id. CIT(A) has dismissed the appeal of the assessee only on this ground that the appellant had not filed any explanation as to how the above auditor's report is incorrect nor the auditor has given any certificate confirming that there was some typographic mistake on their part and the figure shown in the original tax audit report was not correct. The Id. Counsel for the assessee filed before this Tribunal the tax audit report of the assessee and submits that auditor has also given a certificate and his submission is that this is the correct audit report from which assessment could be made.

1.3. The Id. D/R supports the impugned order.

2. We have perused the order of the Id. CIT(A) as well as the Id. AO. It appears from the order of the Id. CIT(A) that Id. CIT(A) has dismissed the

appeal of the assessee on this ground that appellant had not filed any explanation as to how the auditor's report is incorrect, the auditor had not given any certificate confirming that there was typographical mistake on their part and the figure shown in the original tax audit report was not correct and to file the correct figure. Before this Tribunal, the ld. Counsel for the assessee filed a tax audit report that includes the FY 2017-18 assessment year up to 2018-19 and date of audit report dated 30.07.2018 and as per the submission of the ld. Counsel for the assessee is that on the basis of this audit report assessment could be made. Since it is a case of typographical mistake done by auditor in his audit report and before this Tribunal correct audit report has been filed, hence, we are in this view that the case is remanded back to the file of the AO to assess the income after going over the correct audit report filed by the assessee as above. Accordingly, the orders of both ld. CIT(A) and ld. AO is set aside, case is remanded back to the file of ld. AO to assess the income after going over the correct audit report of the assessee.

3. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open Court on 14th August, 2024.

Sd/-

[Manish Borad]
Accountant Member

Sd/-

[Pradip Kumar Choubey]
Judicial Member

Dated: 14.08.2024

Bidhan (P.S.)

Copy of the order forwarded to:

1. **Basu Pharmaceuticals, 56/1N, Biplabi Rash Begari Basu Road
Canning Street, Kolkata, West Bengal, 700001.**
2. **ITO, Ward-22(2), Kolkata.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

//True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata