

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH KOLKATA

**Shri Sonjoy Sarma, Judicial Member
Shri Rakesh Mishra, Accountant Member**

**I.T.A. No. 734/Kol/2024
Assessment Year: 2014-15**

**Rajeev Chowdhary,
C/o Subash Agarwal & Associates,
Advocate, Siddha Gibson, 1,
Gibson Lane, Suite 213, 2nd Floor,
Kolkata - 700069
[PAN: ACBPC4360N]**

..... **Appellant**

vs.

**Income Tax Officer
Ward 46(1), Kolkata,
3, Govt. Place West,
Kolkata – 700001**

..... **Respondent**

Appearances by:

Assessee represented by : Shri Siddarth Agarwal, Advocate
Department represented by : Shri Kallol Mistry, JCIT

Date of concluding the hearing : August 01, 2024

Date of pronouncing the order : August 01, 2024

ORDER

Per Sonjoy Sarma, Judicial Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2014-15 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by the National Faceless Appeal Centre (NFAC), Delhi, dated 07.02.2024 arising out of Assessment Order dated 29.03.2022, passed under Section 147 read with section 144B of the Act.

2. The Assessee has raised the following grounds of appeal:

- "1. For that the Ld. CIT(A) was not justified in dismissing the appeal of the assessee ex-parte without providing reasonable opportunity of hearing.
2. For that the Ld. CIT(A) was not justified in upholding the validity of re-opening proceedings u/s 147/144 which is bad in law and is liable to be quashed.
3. For that the Ld. CIT(A) was not justified in upholding the re-opening proceedings inspite of the fact that the reasons to believe were invalid and improper thereby, vitiating the reopening proceedings.
4. For that the Ld. CIT(A) was not justified in upholding the validity of re-opening proceedings inspite of the fact that the purported sanction u/s 151 was not obtained or was not in accordance with law which vitiated the reopening process.
5. For that the Ld. CIT(A) ought to have considered that the principles of natural justice was violated by the AO by not confronting the assessee with the alleged adverse materials collected behind its back, as such the additions made are vitiated in law and are liable to be deleted.
6. For that the Ld. CIT(A) erred in confirming the addition of Rs. 3,50,030/- u/s 68 made by the A.O. on account of ingenuine loan.
7. The appellant craves leave to add further grounds of appeal or alter the grounds at the time of hearing."

3. At the time of hearing, the Ld. AR stated that the impugned order passed by the Ld. CIT(A) is an ex-parte order and the assessee did not get any opportunity to represent its case properly. Therefore, another opportunity may be given to the assessee so that assessee can represent its case properly before the Ld. CIT(A).

4. On the other hand, the Ld. DR objected to such prayer made by the AR of the assessee, he stated that ample opportunities have been given to the assessee before passing such impugned order. However, the assessee nor its representative filed any response in compliance to the notices issued by the CIT(A). Therefore, the Ld. CIT(A) has no other alternative but to pass as an ex-parte order. We after hearing the rival submission of the parties and

perusing the material available on record. We find that the impugned order passed by the Ld. CIT(A) is an ex-parte order. Although notices were served upon the assessee but AR of the assessee did not represent the case properly and due to this reason, an ex-parte order was passed against the assessee. We after considering the facts of the case, and interest of justice find it necessary to remand back the whole issue to the file of the Ld. CIT(A) with a direction to re-examine the issue afresh after affording reasonable opportunity of being heard to the assessee. Assessee is also directed to appear before the Ld. CIT(A) as and when notice for hearing issued from Ld. CIT(A) on such date without any fail. In terms of the above, the appeal of the assessee is allowed for statistical purposes.

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

Kolkata, the 1st August, 2024.

Sd/-
[Rakesh Mishra]
Accountant Member

Sd/-
[Sonjoy Sarma]
Judicial Member

Dated: 01.08.2024.
AK, PS

Copy of the order forwarded to:

- 1 Rajeev Chowdhary
2. Income Tax Officer, Ward 46(1), Kolkata
3. CIT(A)-
4. CIT-
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches