

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

Before Shri Sanjay Garg, Judicial Member and Shri Rakesh Mishra, Accountant Member

I.T.A. No.1136/Kol/2023
Assessment Year: 2011-12

Bisseswarlal Mannalal & Sons.....Appellant

12, Pretoria Street,
5th Floor, Kolkata – 700 071.
[PAN: AACFB7736L]

vs.

ACIT, Circle-33, Kolkata..... Respondent

Appearances by:

Shri Miraj D. Shah, AR, appeared on behalf of the assessee.

Shri Sailen Samaddar, Addl. CIT- Sr. DR, appeared on behalf of the Revenue.

Date of concluding the hearing : June 06, 2024

Date of pronouncing the order : September 04, 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 31.08.2023 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 ld. CIT(A) has dismissed the appeal of the assessee under mistaken belief that the assessee has availed Vivad Se Vishwas scheme, 2020 and he treated the appeal has deemed to be withdrawn as per clause 2 of section 4 of the Direct Tax Vivad Se Vishwas Act, 2020. However, the ld. counsel for the assessee has submitted that the assessee had availed Vivad Se Vishwas scheme in respect of order passed u/s 143(3) of the Act dated 10.03.14. Thereafter, the assessment was reopened u/s 147 of the Act by issuing notice u/s 148 of the Act 23.03.16. The ld. counsel has submitted that the assessee

had not availed Vivad Se Vishwas scheme in respect of assessment order dated 24.11.16 passed u/s 147 of the Act. That the ld. CIT(A) mistakenly held that the assessee has availed Vivad Se Vishwas scheme in respect of the said order.

3. Considering the above submissions, the impugned order of the ld. CIT(A) is set aside and the matter is restored to the file of the CIT(A) with a direction to decide the appeal of the assessee on merits after giving proper opportunity to the assessee to present his case.

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

Kolkata, the 4th September, 2024.

Sd/-

[Rakesh Mishra]

लेखा सदस्य/Accountant Member

Sd/-

[Sanjay Garg]

न्यायिक सदस्य/Judicial Member

Dated: 04.09.2024.

RS

Copy of the order forwarded to:

1. Bisseswarlal Mannalal & Sons
2. ACIT, Circle-33, Kolkata
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches