

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.1248/Kol/2024
Assessment Year: 2017-18

Radheshyam Toshniwal.....Appellant

C/o Radheyshyam Rameshkumar,
84 Jamunalal Bajaj Street First Floor,
Kolkata – 700007.

[PAN: ABPPT9517M]

vs.

ITO, Ward-44(2), Kolkata..... Respondent

Appearances by:

Shri Sunil Surana, AR, appeared on behalf of the assessee.

Shri Raman Garg, Addl. CIT- Sr. DR, appeared on behalf of the Revenue.

Date of concluding the hearing : September 03, 2024

Date of pronouncing the order : September 06, 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 10.05.2024 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 sole issue raised in this appeal is relating to the estimation of profit @ 20% of the sales by the ld. CIT(A).

3. At the outset, the ld. counsel for the assessee has invited our attention to the impugned order of the CIT(A) to submit that the ld. CIT(A) has not given any basis to estimate the profit @ 20% of the sales. The only reasoning given by the CIT(A) is that the assessee did not furnish the complete documentary evidence with respect to sale/purchase transaction. However, the ld. counsel for the assessee has brought to our attention to paper-book to submit that the assessee

has duly furnished all the requisite documents not only before the Assessing Officer but also before the Id. CIT(A). Even, the audited tax report was also furnished before the Assessing Officer though not along with the return but during the assessment proceedings. Even the assessee had also furnished the details of the gross profit/net profit of earlier years and demonstrated before the Id. CIT(A) that the gross profits during the year were at 4.36%, which were more than that of earlier year. The Id. counsel has further submitted that even the books of accounts have not been rejected and that the action of the Id. CIT(A) in estimating the gross profit @ 20% without any basis, was not justified.

4. The Id. DR, on the other hand, has relied upon the findings of the CIT(A).

5. Considering the rival submissions, we find that the action of the Id. CIT(A) in estimating the gross profit @ 20% without giving any basis and without even considering any comparative data, without rejecting the books of account and even ignoring the gross profits of the past years, cannot be held to be justified. In view of this, the action of the Id. CIT(A) in estimating the gross profit @ 20% is set aside and the Assessing Officer is directed to accept the gross profit/net profit as shown by the assessee in the books of accounts.

6. In the result, the appeal of the assessee stands allowed.

Kolkata, the 6th September, 2024.

Sd/-

[Rakesh Mishra]

लेखा सदस्य/Accountant Member

Sd/-

[Sanjay Garg]

न्यायिक सदस्य/Judicial Member

Dated: 06.09.2024.

RS

Copy of the order forwarded to:

1. Radheshyam Toshniwal
2. ITO, Ward-44(2), Kolkata
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches