

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

श्री प्रदीप कुमार चौबे, न्यायिक सदस्य  
एवं

श्री संजय अवस्थी, लेखा सदस्य  
के समक्ष

Before

**PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER  
&  
SRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No.: 1026/KOL/2024  
Assessment Year: 2010-11**

***Sharada Radhakrishnan.....Appellant  
[PAN: ADMPR 1349 G]***

***Vs.***

***ITO, Ward-25(4), Kolkata.....Respondent***

**Appearances:**

***Assessee represented by:*** G. Banerjee, FCA and N. Chatterjee, FCA.

***Department represented by:*** Bibekananda madhu, JCIT, Sr. DR.

Date of concluding the hearing : September 12<sup>th</sup>, 2024

Date of pronouncing the order : September 13<sup>th</sup>, 2024

**ORDER**

**Per Sanjay Awasthi, Accountant Member:**

In this case, the appellant had filed return of income on 01.04.2011 at Rs. 6,16,680/-. Based on information available with the Assessing Officer (hereinafter referred to as ld. 'AO'), the case was re-opened u/s 147 of the Income Tax Act, 1961 (in short the 'Act'). The ld. AO is seen to have recorded that an amount of Rs. 6,98,975/- on account of profit from sale of shares was not, allegedly, accounted for. Thereafter, after recording that no compliance was made to notices issued by him, the ld. AO proceeded to add this amount in the hands of the assessee.

1.1. Aggrieved with this action, the appellant approached the Commissioner of Income Tax (Appeals)-7, Mumbai [hereinafter referred to as Id. 'CIT(A)'], before whom also no compliance was made to the notices sent for hearing. Thereafter, the Id. CIT(A) also upheld the action of Id. AO.

1.2. In light of these facts, this appellant has approached the ITAT with the following grounds of appeal:

*“1. For that in the facts and circumstances of the case and in law, the assessee was not granted sufficient and reasonable opportunity of hearing in course of assessment as personal hearing to present oral submissions was not granted to the assessee and the procedural and jurisdictional formalities and necessities u/s. 147/148 were not observed, rendering the impugned assessment order u/s. 143(3)/147 dated 26.12.2017 invalid, ab-initio void and beyond jurisdiction and should be cancelled/set-aside/quashed.*

*2. For that in the facts and circumstances of the case and in law, the addition of Rs. 698,975 as alleged unexplained investment u/s. 69A is wrong, erroneous, arbitrary, perverse, misconceived, excessive and deserves to be deleted/reduced.*

*3. For that in the facts and circumstances of the case and in law, refusal to grant credit for tax deducted at source attributable to income assessed to tax in assessee's hands, and for self-assessment tax paid are wrong, erroneous, misconceived, arbitrary, excessive and should have been allowed.*

*4. For that the assessee craves leave to amend, alter, rescind, substitute and/or submit additional ground/grounds at the time of hearing of appeal.”*

2. During the course of hearing before us, Id. A/R vehemently argued that neither did the Id. AO afford any worthwhile opportunity to the assessee for presenting her case, nor is the assessment order a speaking one. He also stated that the e-mails sent by the Id. CIT(A) were not received by the assessee and thus she was denied opportunity to present the case. The Id. A/R emphasised on ground no. 1, which ventilates the grievance regarding denial of opportunity.

2.1. The Id. D/R relied on the orders of the authorities below.

3. We have carefully considered the documents placed before us and the arguments of Id. DR/AR. It is clear from a reading of the orders of authorities

below that the addition has been made and sustained because the assessee could not present her case. Accordingly, we deem it fit to remand this case back to the Id. AO for fresh adjudication on merits, after giving proper opportunity of hearing to the assessee.

4. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

**Order pronounced in the open Court on 13<sup>th</sup> September, 2024.**

*Sd/-*

**[Pradip Kumar Choubey]**  
Judicial Member

*Sd/-*

**[Sanjay Awasthi]**  
Accountant Member

Dated: 13.09.2024

*Bidhan (P.S.)*

*Copy of the order forwarded to:*

- 1. Sharada Radhakrishnan, 66, Jodhpur Park, Kolkata, West Bengal, 700068.**
- 2. ITO, Ward-25(4), Kolkata.**
3. CIT(A)-7, Mumbai.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

*//True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata