

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

श्री संजय गर्ग, न्यायिक सदस्य
एवं
श्री संजय अवरथी, लेखा सदस्य
के समक्ष
Before

**SRI SANJAY GARG, JUDICIAL MEMBER
&
SRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No.: 293/KOL/2024
Assessment Year: 2017-18**

ITO, Ward-6(2), Kolkata.....Appellant

Vs.

**Prakash Agarwal.....Respondent
[PAN: ADBPA 7335 A]**

Appearances:

Department represented by: Arup Chatterjee, Addl. CIT.

Assessee in Person: Prakash Agarwal, Appellant.

Date of concluding the hearing : September 30th, 2024

Date of pronouncing the order : September 30th, 2024

ORDER

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the Revenue against the order of the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Id. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter the 'Act') dated 18.12.2023 for the AY 2017-18.

2. The Revenue is aggrieved by the action of the Id. CIT(A) deleting the addition of Rs. 75,39,770/- made by the Assessing Officer (hereinafter referred to as Id. 'AO') on account of unexplained expenditure u/s 69C of the Act. The AO noticed during the assessment proceedings that there were large

scale transactions through credit card. On being asked to explain the source of the aforesaid expenditure incurred through credit card, the assessee did not file any submissions. The AO, therefore, completed the *ex-parte* assessment u/s 144 of the Act, making the impugned additions.

3. In appeal before the Id. CIT(A), the assessee explained that he was not conversant with the online procedure of assessment. That though, the assessee tried to explain the aforesaid transactions but somehow this could not be taken note of by the AO. It was, further, explained before the Id. CIT(A) that in fact there was some misconception on the part of the AO as he took the same transaction repeatedly and therefore, duplicate transactions were taken into consideration and thereby exaggerated amount of expenditure was taken as against the actual amount spent by the assessee. The assessee duly explained all the transactions before the Id. CIT(A). The Id. CIT(A), taking consideration of all the transactions, held that the impugned additions were erroneous as the AO has taken duplicate transactions into account. The relevant part of the order of the Id. CIT(A) is reproduced as under:

“5.3:- I have carefully considered the facts of the case, the issue raised vide this ground of appeal, findings of the AO on this issue and reply filed by the appellant during appellate proceedings in support of its contention. From the perusal of assessment order it is seen that case was taken up under limited scrutiny vide CASS on the issue of “Large cash payment made for credit card purchases”. During the assessment proceedings AO issued notices and sought explanation from the AO vide show cause notices with regard to large payments through credit cards during the year. The appellant could not reply/ responded to the notices or show cause notice issued by the AO during assessment proceeding, therefore AO resorted to sec 144 under the given circumstances. From the perusal of assessment order it is seen that AO has noted I his findings the appellant has payment of Rs 7539770/- to credit card company for expense incurred by him. It was further noted by the AO that appellant has filed Return of Income (ROI) wherein he has declared Rs 496326/- as gross total income (GTI). Hence AO concluded that considering the income declared by appellant in his ROI, it is clear that appellant has some other source of income which he has not offered for taxation. Accordingly the AO has treated the entire expenses on account of credit card transactions as unexplained expenditure u/s 69C of the IT Act and accordingly made addition in the total income of the appellant.

5.4:- The appellant has strongly opposed the findings of the AO in his reply filed during appellate proceedings and has submitted the detailed paper

book containing annexure depicting the ledger of credit card no. and corresponding bank statement issued from the bank. The appellant has submitted that that he has filed ROI declaring total income of Rs 496326 which includes income from retail trading of readymade garments and income from astrology apart from income from interest on bank deposits. Further appellant has also submitted that all the correspondence during assessment proceeding was through online mode, he could not duly submit his reply during the assessment proceedings because he was not very much techno friendly. From the perusal of reply it is seen that appellant has submitted a tabular depiction/ representation of credit card transactions undertaken by him during the year, as appearing in the para 4 above. The appellant has submitted that the information upon which addition has been made "suspected financial transaction" (SFT) as reported by income tax department is not factually correct. The appellant has submitted that out of 12 entries of SFT as reported by the department, 5 entries are in duplication. The appellant has further identified that the entries at S.N. 5, 6, 7, 9 and 12 are duplicate in nature, which is an error of duplicity by taking same information twice. Further the appellant has submitted that out of total reported credit card expenditure, 7539770/- (12 entries) it is only 7 entries which are valid for our consideration. Accordingly the appellant after rectifying the mistakes of duplication, has arrived the correct figure which comes to Rs 4302456/- (i.e. 7539770-3237314). It is seen that appellant has furnished detailed explanation and reconciliation statement with regard to credit card expenditure amounting to balance of Rs 4302456/-. From the submission of the appellant it is seen that the appellant has explained the remaining 7 entries of credit card transaction with documentary evidence. The appellant has furnished the copy of ledger account of the credit card along with bank statement issued by corresponding bank. From the detailed examination of the reply and supporting documentary evidence it is seen that the appellant has made expenditure in his normal course of business either to meet business needs such as payments to creditors or payments are either in the nature of routine expenses. From the analysis of the information (SFT) and reply of the appellant it is seen that there are duplication in reporting the information. Further appellant has mostly reconcile the information (credit card transaction) with records maintained by him. On the whole appellant has submitted that credit card payments are duly explained in the light of documentary evidence such as ledger accounts and corresponding bank statement issued by the bank. I have duly examined and considered the explanation of the appellant in the light of documentary evidence. There is no doubt that certain duplication is there in the information (SFT) which has been duly identified by the appellant. Considering the totality of facts and circumstances of present case I am inclined to accept the explanation of the appellant submitted during the appellate proceedings. The appellant has duly explained the nature and source of the expenditure incurred through credit card transactions. Such transactions are genuine and bonafide transactions undertaken in the

normal course by the appellant. Hence, AO is directed to delete the addition of Rs 753970/- made u/s 69C of IT Act. Therefore these grounds of appeal are allowed.”

4. After hearing the assessee in person and the ld. D/R, we do not find any infirmity in the order of the ld. CIT(A). The ld. D/R could not point out any defect or infirmity in the order of the ld. CIT(A). In view of this, there is no merit in the appeal of the Revenue and the same is accordingly dismissed.

5. In the result, appeal filed by the Revenue stands dismissed.

Order pronounced in the open Court on 30th September, 2024.

Sd/-

[Sanjay Awasthi]
Accountant Member

Sd/-

[Sanjay Garg]
Judicial Member

Dated: 30.09.2024

Bidhan (P.S.)

Copy of the order forwarded to:

- 1. ITO, Ward-6(2), Kolkata.**
- 2. Prakash Agarwal, 37, Park Lane Behind 105 Park Street, Kolkata, West Bengal, 700016.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata