

आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता ।
IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, KOLKATA

DR. MANISH BORAD, ACCOUNTANT MEMBER &
SHRI SONJOY SARMA, JUDICIAL MEMBER

I.T.A. No. 1065/KOL/2024
Assessment Year: 2015-16

Harish Kumar Biyani 138, Canning Street, GPO, Kolkata-700001. (PAN: AFJPB4085N)	Vs	Assistant Commissioner of Income Tax, Circle-34, Kolkata
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	Shri Shivansh Tulshyan (on behalf of Sh. Giridhar Dhelia, Advocate)
Revenue by :	Shri P. P. Barman, Addl. CIT, Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	30.09.2024
घोषणा की तारीख/ Date of Pronouncement	:	16.10.2024

आदेश/O R D E R

PER DR. MANISH BORAD, ACCOUNTANT MEMBER:

The captioned appeal filed by the assessee, pertaining to assessment year 2015-16 is directed against the order passed by the Learned Commissioner of Income Tax (Appeal), Addl./JCIT(A)-10, Mumbai (hereinafter referred to as the 'Id. CIT(E)') dated 22.03.2024.

2. The only grievance of the assessee is that the disallowance on Security Transaction Tax (STT) to the tune of Rs.2,78,380/- and service tax of Rs.9800/- are uncalled for as the same has already been disallowed by the assessee in the computation of income and offered to tax. Prayer made to restore the matter to the file of the

AO for necessary verification. Ld. DR was fair enough not to oppose the request made by the Ld. Counsel for the assessee.

3. We have heard rival contentions and carefully perused the material placed before us. The assessee is an individual and declared income of Rs.76,10,380/- in the e-return filed for AY 2015-16 on 30.09.2015. After the case being selected for limited scrutiny through CASS, assessment order framed on 12.12.20-17 making two additions namely, disallowance of STT and at Rs.2,27,380/- and disallowance of service tax of rs.9800/-. Though the assessee challenged the addition before the Ld. CIT(A) but since the appeal was delayed by 142 days, ld. CIT(A) dismissed the assessee's appeal in *limine* by not condoning the delay and also not adjudicating the issues on merit.

4. We, however, observe that during the course of the appellate proceedings before the Ld. CIT(A), Ld. AR of the assessee filed the submission stating that the alleged disallowances are uncalled for because the same have already been offered tax by adding them to the income for the year. This fact is emanating out of the statement of facts filed in Form no. 35 where the assessee has stated that the disallowance so made are not warranted because the assessee had already disallowed the same in the computation of income. This fact has actually escaped the attention of the AO/Ld. CIT(A) resulting in double addition of the same amount. We, therefore, taking note of this fact, deem it appropriate to restore the matter to the file of the AO to carry out necessary verification after affording reasonable opportunity of being heard to the assessee and delete the disallowance if contentions of the



assessee are found to be correct. Grounds of appeal raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the Court on 16th October, 2024 at Kolkata.

Sd/-

(SONJOY SARMA)
Judicial Member

Sd/-

(DR. MANISH BORAD)
ACCOUNTANT MEMBER

Kolkata, Dated 16th October, 2024

Jd, Sr.Ps

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, अधिकरण अपीलीय आयकर , कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata