

आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH KOLKATA

Before Shri Sonjoy Sarma, Judicial Member and Shri Rakesh Mishra, Accountant Member

I.T.A. No.1498/Kol/2024
Assessment Year: 2017-18

Aniruddha Kundu.....Appellant

604, 99 Spruce Place, SW,
Calgary, Calgary, Alberta,
Canada, T3C3X7.

[PAN: APHPK9684E]

vs.

ITO, Ward-1(3), Midnapore..... Respondent

Appearances by:

Shri S.P Datta, AR, appeared on behalf of the assessee.

Shri Roma Chaudhury, JCIT, Sr. DR, appeared on behalf of the Revenue.

Date of concluding the hearing : November 25, 2024

Date of pronouncing the order : November 25, 2024

आदेश / ORDER

Per Sonjoy Sarma, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 12.06.2024 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 brief facts of the case are that the assessee is an individual and earning income abroad during the relevant period. The Assessing Officer obtained information that gross total income of the assessee during the assessment year amounting to Rs.59,49,229/- was comprised of proceed from EPF maturity of Rs.2,56,041/-, LIC maturity of Rs.26,92,564/-, interest income of Rs.39/-, payment made to non-residents of Rs.331/-. The assessee also made investment of Rs.14,00,000/- and Rs.16,00,000/- into two bank term deposits claimed to be a genuine source of the income. A notice u/s 148 of the Act issued to the assessee followed by notice u/s 142(1) of the Act.

However, the assessee did not respond to the notice as he had left India and was unaware of the proceedings due to miscommunication with the Income Tax Department. In the absence of any response from the assessee, the Assessing Officer passed an ex parte order u/s 144 r.w.s 147 of the Act by making an addition of Rs.59,49,230/- in the hands of the assessee.

3. Aggrieved by the above ex parte order, the assessee filed appeal before the ld. CIT(A), however, the appeal was not effectively perused due to negligence of the then authorized representative of the assessee. Ultimately, the ld. CIT(A) dismissed the appeal of the assessee and upheld the order of the Assessing Officer.

4. Dissatisfied with the above order, the assessee is now in appeal before this Tribunal. At the time of hearing, the ld. AR stated that the assessee is a permanent resident of Canada and he has acquired Canadian citizenship. He further stated that the assessee was unaware of the assessment proceedings conducted by the Income Tax Department and came to know about the ex parte order passed by the Assessing Officer only when he visited India in the month of November 2022. He further stated that even before the ld. CIT(A), the then authorized representative of the assessee did not able to handle the matter properly and as a result, the impugned ex parte order was passed against the assessee. He, therefore, prayed before the Bench that another opportunity may be given to the assessee to justify his income and present the relevant evidences in order to substantiate his claim.

5. On the other hand, the ld. DR stated that adequate opportunities were indeed provided to the assessee to respond to the notices and un-responsive behaviour due to the negligence of the assessee in pursuing the matter, cannot be the ground for setting aside the order.

6. We, after hearing the rival submissions and perusing the matter available on record, find that the assessee was residing in Canada during the relevant period and did not receive proper communication about the assessment proceedings. That both the ex parte orders were passed due to negligence on the part of the authorized representative in pursuing the appeal before the authorities below. We further note that the principles of nature justice require that every assessee be given a fair opportunity to present their case and in the present case, the assessee was unable to participate in the assessment proceedings due to factors beyond his control including the miscommunication and inadequate representation. Considering the facts and circumstances of the case, we find that it will be appropriate to remand the whole issue to the file of the Assessing Officer for de novo assessment. The Assessing Officer is directed to provide the assessee a fair opportunity to present all relevant documents and evidences in support of his claim. In the meantime, we also direct the assessee to furnish his updated email, postal addresses to ensure proper communication and make due compliance to the notice issued by the Assessing Officer and actively participate in the de novo assessment proceedings.

7. In terms of the above, the appeal of the assessee is allowed for statistical purposes.

Kolkata, the 25th November, 2024.

Sd/-

[Rakesh Mishra]

लेखा सदस्य/Accountant Member

Sd/-

[Sonjoy Sarma]

न्यायिक सदस्य/Judicial Member

Dated: 25.11.2024.

RS

Copy of the order forwarded to:

1. Aniruddha Kundu
2. ITO, Ward-1(3), Midnapore
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches