

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

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

I.T.A. No.2095/Kol/2024

Assessment Year: 2020-21

Debabrata Paul.....Appellant

5, Bhupen Bose Avenue,
Kolkata – 700004.

[PAN: AEYPP0909B]

vs.

ITO, Ward-44(1), Kolkata.... Respondent

Appearances by:

Shri Gautam Chatterjee, AR, appeared on behalf of the appellant.

Shri Susanta Saha & Shri Rajat Datta, Sr. DRs, appeared on behalf of the Respondent.

Date of concluding the hearing : December 05, 2024

Date of pronouncing the order : December 06, 2024

आदेश / ORDER

Per Sonjoy Sarma, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 21.08.2024 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 filed his return of income for the assessment year 2020-21 by declaring a total income of Rs.1,83,955/-. The case of the assessee was selected for scrutiny in order to verify the agricultural income claimed by the assessee. A notice u/s 142(1) of the Act was issued and in response to that notice, the assessee submitted his reply before the Assessing Officer. During the assessment proceedings, the Assessing Officer observed that Rs.44,80,000/- was received by the assessee which was claimed as exempt income purportedly from sale of the agricultural land. The Assessing Officer however treated this amount as

long-term capital gain considering the land as non-agricultural land and added the same to the total income of the assessee.

3. Dissatisfied with the above order, the assessee filed an appeal before the ld. CIT(A), however, the assessee failed to appear on multiple occasions despite receiving notice from the ld. CIT(A). Consequently, the ld. CIT(A) has left no other option but to dismiss the appeal ex parte without examining the merits of the case.

4. Aggrieved by the order of the ld. CIT(A), the assessee filed the present appeal before this Tribunal contending that the ld. CIT(A) passed the impugned order without considering the merit of the case, thus, the order of the ld. CIT(A) is bad in law. The ld. AR also prayed before the Bench that another opportunity may be given to the assessee to substantiate his claim that the land in question was agricultural land and the income derived thereon is exempt from tax. The ld. AR also stated that the assessee intended to submit documents to prove the nature of the income and the matter is required to refer to Departmental Valuation Officer to ascertain the correct and fair value of the property at the time of transaction in terms of the provisions of section 50C(2) of the Act and the Assessing Officer has failed to act according to the statutory provisions of section 50C(2) of the Act. He, therefore, prayed the matter may be remanded back to the file of the Assessing Officer with a direction to re-examine the issue afresh after providing reasonable opportunity of being heard to the assessee.

5. On the other hand, the ld. DR opposed the above plea of the assessee arguing that sufficient opportunities were provided to the assessee during the appellate proceedings, however, the assessee has failed to avail those opportunities. Therefore, the ld. CIT(A) acted correctly by dismissing the appeal of the assessee on the basis of

materials available on record. He, therefore, prayed that such prayer made by the assessee may be rejected in limine.

6. We, after hearing the rival submissions and perusing the materials available on record, find that the assessee did not comply with the notices before the ld. CIT(A) and the appeal was dismissed solely on the procedural ground without examining the merits of the case. We note that as per section 250(6) of the Act, every appeal should be decided on merit of the case. However, in the instant appeal, the ld. CIT(A) did not do so. We, therefore, considering the facts of the case and in the interest of justice, remand back the issue to the file of the Assessing Officer with a direction to re-examine the issue afresh after providing reasonable opportunity of being heard to the assessee to present his case and submit relevant documents. We also direct the assessee to strictly comply with the notices issued by the Assessing Officer without any fail.

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

Kolkata, the 6th December, 2024.

Sd/-

[Rakesh Mishra]

लेखा सदस्य/Accountant Member

Sd/-

[Sonjoy Sarma]

न्यायिक सदस्य/Judicial Member

Dated: 06.12.2024.

RS

Copy of the order forwarded to:

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

//True copy//

By order

Assistant Registrar, Kolkata Benches