

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.2081/Kol/2024

Assessment Year: 2018-19

Sekhpara Manikore Samabay

Krishi Unnayan Samith Ltd.....Appellant

C/o Subash Agarwal & Associates,
Advocate Siddha Gibson,
1, Gibson Lane, Suite 213, 2nd Floor,
Kolkata – 700069.

[PAN: AAGAS8001C]

vs.

ITO, Ward-3(4), Balurghat.... Respondent

Appearances by:

Shri Siddharth Agarwal, Advocate, 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 28.08.2024 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 a non-filer of Income Tax Return for the assessment year 2018-19. It was found that the assessee made cash deposit of Rs.1,57,66,762/- in the Malda District Central Cooperative Bank Ltd. during the financial year 2017-18. Since, the source of the deposit remained unexplained, the department reopened the case of the assessee by issuing notice u/s 148 of the Act after obtaining prior approval from the competent authority. In response to the notice u/s 148 of the Act, the assessee filed its return

of income declaring a loss of Rs.3,46,478/-. Subsequently, the Assessing Officer issued notice u/s 142(1) of the Act explaining the source of the deposits. The assessee sought adjournments and eventually submitted financial statement before the Assessing Officer and the Assessing Officer observed that the assessee received interest on loan and advances amounting to Rs.28,36,553/- and interest on deposits with banks of Rs.26,33,315/-. The Assessing Officer treated the bank interest of Rs.26,33,315/- as 'income from other sources' instead of profits and gains from business as claimed by the assessee. Accordingly, the Assessing Officer added this amount 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 notices issued time to time informing about the hearing of the case. Consequently, the ld. CIT(A) dismissed the appeal ex parte without examining the merit of the case.

4. Aggrieved, the assessee preferred appeal before this Tribunal arguing that the ld. CIT(A) passed the impugned order without considering the merit of the case which is a violation of section 250(6) of the Act which mandates of deciding appeals on merit. The assessee, therefore, requested before the Bench that another opportunity may be given to the assessee so as to substantiate its claim by submitting relevant documents before the ld. CIT(A).

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.

6. We, after hearing the rival submissions and perusing the materials available on record, find that the ld. CIT(A) dismissed the appeal solely on the procedural ground without examining the merits of the case, which is essential u/s 250(6) of the Act. We, therefore, considering the facts of the case and in the interest of justice and fair play, remand back the issue to the file of the ld. CIT(A) for fresh adjudication after giving reasonable opportunity of being heard to the assessee to present its case. We also direct the assessee to strictly comply with the notices issued by the ld. CIT(A) and furnish all necessary documents to substantiate its claim.

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. Sekhpara Manikore Samabay Krishi Unnayan Samith Ltd
2. ITO, Ward-3(4), Balurghat
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches