

**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.2085/Kol/2024**

Assessment Year: 2017-18

**Alip Mitra.....Appellant**

Baranasi Roy Road, Goari Bazar,  
Krishna Nagar, Sonapatty, Nadia,  
W.B. – 741101.

**[PAN: ABFA6640D]**

vs.

**ITO, Ward-41(1), Nadia.... Respondent**

**Appearances by:**

Shri Anil Kochar, Advocate, appeared on behalf of the appellant.

Shri Rajat Datta, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : December 04, 2024

Date of pronouncing the order : December 05, 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 engaged in the business of distribution/selling of products of Hindustan Lever and ITC and filed his return of income declaring a total income of Rs.4,14,860/- for the F.Y 2016-17 relevant to A.Y 2017-18. The return was processed u/s 143(1) of the Act. Subsequently, the case of the assessee was selected for scrutiny due to large cash deposit made during the demonetization period. Notices u/s 143(2) and 142(1) of the Act were issued and the assessee complied with by submitting required documents and made appearance before the Assessing Officer through his engaged authorized representative (AR). During the assessment

proceedings, the ld. AR submitted audited financial statement and explained the business activity. The key issue involved is that credit notes for rebates and discounts amounting to Rs.34,44,965/- received by the assessee. It was explained that by the assessee that the assessee allowed these discounts to its customers on sales in the same manner as the assessee received such discount/rebate. The books of account were shown fully disclosure of these transactions, however, the Assessing Officer rejected the explanations of the assessee and added Rs.34,44,965/- to the income of the assessee. Additionally, a sum of Rs.70,000/- was added by the Assessing Officer as credit received by the assessee from ITC ignoring the fact that the assessee explained in this regard that the assessee was part of the discount process.

3. Dissatisfied with the above order, the assessee filed an appeal before the ld. CIT(A) but the appeal of the assessee was dismissed without considering the merit of the case as the assessee failed to submit the requisite compliances before the ld. CIT(A). The ld. CIT(A) while passing the impugned order inserted irrelevant facts in his order which were not connected with the case of the assessee and failed to apply judicial mind.

4. Aggrieved, the assessee is in appeal before us. The ld. AR stated before the Bench that the impugned order was passed ex parte and was devoid of merit of the case and also the ld. CIT(A) inserted irrelevant facts in his order which were not connected with the instant case, therefore, the impugned order needs to be set aside by this Tribunal.

5. On the other hand, the ld. DR stated that although certain facts were inserted which were not connected to the case of the assessee but the issues on which the appeal was decided were connected with the

case of the assessee, therefore, there was no irregularity in the order of the ld. CIT(A).

6. We, after hearing the rival submissions and perusing the materials available on record, observe that the ld. CIT(A) failed to provide fair opportunity to the assessee and included unrelated facts in his order which are not connected with the case of the assessee which is clearly noticed in paragraph 3 of the impugned order. We, therefore, deem it appropriate to remand the matter 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. The assessee is also directed to comply with the notices issued by the Assessing Officer without fail and provide all necessary documents in support of his claim.

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

***Kolkata, the 5<sup>th</sup> December, 2024.***

Sd/-

**[Rakesh Mishra]**

लेखा सदस्य/Accountant Member

Sd/-

**[Sonjoy Sarma]**

न्यायिक सदस्य/Judicial Member

Dated: 05.12.2024.

RS

*Copy of the order forwarded to:*

1. Alip Mitra
2. ITO, Ward-41(1), Nadia
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches