



**IN THE INCOME TAX APPELLATE TRIBUNAL
SMC BENCH, LUCKNOW**

BEFORE SHRI. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER

ITA No.613/LKW/2024
Assessment Year: 2022-23

Alok Dadu H. No.310, Gali No.3 Bharampuri Modi Nagar	v.	The ITO-2(4) Pilibhit
TAN/PAN:ACDOD4702B		
(Appellant)		(Respondent)

Appellant by:	Ms. Shweta Mittal, C.A.
Respondent by:	Shri Sanjeev Krishna Sharma, D.R.
Date of hearing:	02 12 2024
Date of pronouncement:	11 12 2024

ORDER

This appeal has been preferred by the Assessee against the order dated 17.10.2023, passed by the Id. Addl/JCIT(A)-1, Coimbatore for Assessment Year 2022-23.

2. The brief facts of the case are that the assessee filed his return of income for the year under consideration on 13.10.2022, declaring a total income of Rs.22,01,714/-. The Assessing Officer (AO) issued notice under section 143(1)(a) of the Income Tax Act, 1961 (hereinafter called "the Act") to the assessee on the ground that there was a mismatch of expenditure between the Audit Report and the return filed by the assessee. The AO noticed that in the Audit Report at Point No.20(b), under section 36(1)(c) of

the Act, the amount mentioned in Annexure 3CD(b) was Rs.6,83,290/-, whereas in the Return of Income in Schedule OI, the amount mentioned was Zero. The assessee clarified before the AO that due to typing mistake, the amount of Rs.6,83,290/- was shown as late payment in the Audit Report. However, the AO rejected this submission of the assessee and added the amount of Rs.6,83,290/- to the income of the assessee. The AO accordingly completed the assessment under section 143(1) of the Act, assessing the total income of the assessee at Rs.28,85,005/-.

3. Aggrieved, the Assessee preferred an appeal before the ld. First Appellate Authority. Subsequently, the appeal was migrated to Addl/JCIT(A)-1, Coimbatore. However, the appeal before the Addl/JCIT(A)-1, Coimbatore came to be dismissed ex-parte qua the Assessee.

4. Now, the Assessee has approached this Tribunal challenging the actions of the AO as well as the Addl/JCIT(A)-1, Coimbatore by raising the following grounds of appeal:

1. That ld. AO is erred in law to make addition on the ground that in filled Audit Report at table No. Payment of ESI and EPF made after due date, passed order supported and confirmed by ld. Addl (A) whereas appellant cleared that this was merely a typing clerical error made by computer

operator while drafting audit report and in this connection Auditor has given his signed clarification, which was attached and clarify that each and every payment was in time but ld. AO still imposed tax on amount paid in connection with EPF.

5. The Ld. Authorized Representative for the assessee (Ld. A.R.) submitted that there is a delay of 292 days in filing the appeal before the Tribunal. He submitted that the assessee had filed an application for condonation of delay, duly supported by an Affidavit, stating therein that the assessee had met with a major accident which effected his ability to manage the responsibilities. Therefore, the appeal could not be filed within the stipulated period. He prayed that the delay be kindly condoned.

6. The Ld. Sr. D.R. had no objection to the delay being condoned.

7. In view of the prayer made by the Assessee, duly supported by Affidavit and no objection by the Ld. Sr. D.R., I condone the delay in filing of the appeal and admit the appeal for hearing.

8. The Ld. A.R. submitted before us that due to typing mistake, the amount of Rs.6,83,290/- was shown as late

payment in the Audit Report. She further submitted that the Accounts of the assessee were duly audited by a Chartered Accountant and that the Auditor has duly clarified that each and every payment was made on time. She prayed that the appeal may be restored to the Office of the AO, as the AO would be in a better position to examine the various evidences which the assessee would like to bring on record with regard to the amount mentioned in the Audit Report at Point No.20(b).

9. The Ld. Sr. D.R. had no objection to the restoration of appeal to the Office of the AO, as requested by the ld. A.R.

10. I have heard both the parties and have also perused the material on record. Looking into the facts of this case, I am of the considered view that the assessee deserves one more opportunity to present his case and, therefore, in the interest of substantial justice, I restore this file to the Office of the AO with the direction to provide one more opportunity to the assessee to present his case along with necessary evidences. I also caution the assessee to fully comply with the directions of the AO in the set-aside proceedings when called upon to do so, failing which, the AO would be at complete liberty to pass the order in accordance with law, based on the material available on record even if it is ex-parte qua the assessee.

11. In the result, the appeal of the assessee stands allowed for statistical purposes.

Order pronounced in the open Court on 11/12/2024.

Sd/-
[SUDHANSHU SRIVASTAVA]
JUDICIAL MEMBER

DATED:11/12/2024

JJ:

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR

By order

Assistant Registrar