

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, KOLKATA

**BEFORE SHRI RAJESH KUMAR, AM
AND
SHRI PRADIP KUMAR CHOUBEY, JM**

**ITA Nos.430 & 431/KOL/2024
(Assessment Year:2014-15 & 2017-18)**

**Alliance Books Suppliers Pvt.
Ltd.**
Khagrabari, North, P.S. Kotwali,
Area Sardar, Coochbehar,
West Bengal-736101

Vs.

ACIT, Circle 2(1)
Central Revenue Building,
Race Course Road,
Jalpaiguri,
West Bengal-735101

(Appellant)

(Respondent)

PAN No. AADCA1168P

Assessee by : Shri Soumitra Choudhury &
Shri Pranabesh Sarkar, Ars
Revenue by : Shri Arup Chatterjee, DR

Date of hearing: 12.12.2024

Date of pronouncement : 16.12.2024

ORDER

Per Rajesh Kumar, AM:

These are appeals preferred by the assessee against the orders of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(A)" even dated 21.12.2023 for the AYs 2014-15 & 2017-18 respectively. First of all we shall take up the ITA No. 430/KOL/2024.

ITA No. 430/KOL/2024.

02. At the outset, the Id. Counsel for the assessee pointed out that the assessment u/s 143(3) dated 14.12.2016, was passed in the case of the assessee wherein no addition was made on account of legal charges of ₹4,50,591/-, bank charges & interest of ₹49,58,052/- and commission expenses u/s 40(a)(ia) of the Act of ₹6,85,091/-.

Thereafter, the Id. PCIT invoked the revisionary jurisdiction u/s 263 of the Act and revised the above said assessment on the ground of being erroneous and prejudicial to the interest of the revenue. Pursuant thereto, the Id. AO passed the order u/s 263/ 143(3) of the Act dated 17.12.2019, wherein the above additions were made. The Id. AR submitted that the proceedings were taken u/s 13 sub section 2 of SARFASI Act, were initiated against the assessee and therefore, the assessee could not comply with the notice issued by the Id. AO requiring to explain these expenses with evidences and similarly, proceeding before the Id. CIT (A) also were, *ex-parte for the same reason*. The Id. AR therefore prayed that in the interest of justice and fair play the assessee may kindly be given one more opportunity to present his case as the non-attendance and non furnishing of evidences were beyond the control of the assessee, as the bank has taken over the premises of the assessee under the SARFASI Act.

03. The Id. DR left the issue to the wisdom of the bench.

04. After hearing the rival contentions and perusing the materials available on record, we note that the proceedings, before the Id. AO as well as Id. CIT (A) attained finality when the assessee did not respond to the various notices issued by these authorities. We note that proceedings u/s 13 sub section 2 of the SARFASI Act were initiated against the assessee resulting into taking over the premises by the bank and consequently, no compliance could be made. Considering the present facts and circumstances, we are inclined to set aside the order of Id. CIT (A) by restoring the issue to the file of the Id. AO with a direction to decide the same afresh after giving reasonable opportunity of hearing to the assessee. The appeal of the assessee is allowed for statistical purposes.

**ITA No.431/KOL/2024**

05. The only issue raised at the time of hearing is against the confirmation of additions by Id CIT(A) of (i) ₹1,13,17,518/- as unexplained u/s 68 of the Act on account of foreign remittance, (ii) ₹53,490/- in respect of income tax debited in the Profit and Loss account and (iii) ₹79,503/- in respect of and legal charges including ROC charges which were added by the AO in the assessment framed.
06. The facts in brief are that the assessee filed the return of income on 23.12.2017, declaring total income of ₹6,37,850/-. The case of the assessee was selected for completed scrutiny and accordingly, statutory notices were duly issued and served upon the assessee. During the assessment proceedings, there was no compliance from the assessee's side and consequently, the additions of ₹1,13,17,518/- was made by the Id. AO u/s 68 of the Act as unexplained expenditure towards the foreign remittance besides making another addition of ₹53,490/- and ₹79,503/- in respect of income tax debited in the Profit and Loss account and legal charges including ROC charges respectively thereby, assessing the income at ₹1,28,41,360/- vide order dated 26.12.2019, passed u/s 143(3) of the Act.
07. Similarly, the Id. CIT (A) dismissed the appeal of the assessee *ex-parte* when the assessee failed to respond various notices.
08. After hearing the rival contentions and perusing the materials available on record, we find that the Id. AO has made three disallowances and additions when the assessee failed to furnish the necessary evidences before the Id. AO. Similarly, the Id. CIT (A) dismissed the appeal in limine. So far as the first addition is concerned, we find merit in the contention of the assessee that the forms 15CA were already available before the Id. AO on the web portal



of the department and therefore, the Id. AO could have verified the same from the information available on the portal itself. The assessee has filed before us the copies of forms no.15CA of the Act after downloading from the departmental portal , the copies where of are available in the paper book at page no.5 to 114. The assessee is engaged in the business of Publishing books and journal and has made payments for the journals without deduction of TDS for which necessary form no.15CA were filed with the Department as the filing of said form is mandatory under the Act and were available on the portal of the department. Therefore, we find merit in the contention of the assessee that these additions are uncalled for and has to be deleted. However, we are restoring these issues to the file of the Id. AO with a specific direction to examine these forms available on the portal of the department i.e. Form No. 15CA and decide the issue accordingly. So far as other two issues are concerned (i) ₹53940/-, charged on account of income tax charged to Profit and Loss account and (2) ₹79504/-, on account of legal charges including ROC fee are concerned , we restore this issue to the file of the AO for *denovo* adjudication after affording reasonable opportunity of hearing to the assessee. Consequently, the appeal of the assessee is allowed for statistical purposes.

09. In the result, the appeals of the assessee are allowed for statistical purposes

Order pronounced in the open court on 16.12.2024.

Sd/-
(PRADIP KUMAR CHOUBEY)
(JUDICIAL MEMBER)

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 16.12.2024

Sudip Sarkar, Sr.PS



Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Kolkata