



IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCHES "SMC", KOLKATA

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1686/KOL/2024
Assessment Year : 2012-13

Mani Munjal, B-110 Sargam Sarani, Sector – 2C, Bidhan Nagar, West Bengal-713212 PAN : AZKPM0635J	V/s	ITO, Ward-1(2), Durgapur
Appellant		Respondent

Assessee by	:	None
Revenue by	:	Smt. Madhumita Das, Addl. CIT
Date of hearing	:	27.11.2024
Date of pronouncement	:	03.02.2025

आदेश / ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

The captioned appeal pertaining to Assessment Year 2012-13 at the instance of assessee is directed against the order dated 22.07.2024 passed by National Faceless Appeal Centre, Delhi u/s.250 of the Income-tax Act, 1961 (in short 'the Act') which in turn is arising out of Assessment Order dated 31.03.2016 passed u/s. 144/147 of the Act.

2. Brief facts of the case are that the assessee is an individual who filed the return of income for the A.Y. 2012-13 on 03.09.2012 declaring income from business at Rs.5,26,190/-. The case was reopened consequent to reopening proceedings in the case of husband of the assessee and on the basis of information available with the department that assessee made cash deposit to the tune of Rs.22.69 lakh in the joint bank account maintained with ICICI bank. In response



to notice u/s.148, the assessee filed the return of income declaring income of Rs.7,87,730/-. Ld. AO noticed that the turnover of the assessee as per ITR is Rs.12,65,500/- and also profit rate as shown by the assessee in the original return is 30% whereas in the return filed in response to notice u/s.148 it is shown as 13.79%. The assessee filed certain details in response to the notices issued u/s.143(2) and 142(1) of the Act claiming that the said cash deposit is out of regular business activity of the assessee. Not convinced with the explanation/details furnished by the assessee, ld. AO eventually made addition of cash deposit of Rs.22.69 lakh to the total income of the assessee assessing the income at Rs.23,96,640/-.

3. Aggrieved assessee preferred appeal before the ld.CIT(A) and the ld.CIT(A) dismissed the appeal of the assessee *in limine* for non-prosecution.

4. Now the assessee is in appeal before the Tribunal.

5. When the appeal was called for, none appeared on behalf of the assessee despite due service of notice of hearing. I therefore proceed to dispose of the appeal with the able assistance from the ld. Departmental Representative.

6. I have heard the ld. Departmental Representative and perused the record placed before me. It is an admitted position that the assessee made partial compliance in the proceedings before the AO. In the proceedings before the CIT(A), there is no participation by the assessee. It appears that the assessee has furnished Form No.35 and Grounds of Appeal dully filled in Column No.11 of Form No.35. Also, from the perusal of Form No.35, it is seen that the assessee has paid challan on



30.04.2016 and therefore the assessee has fulfilled all the requirement in filing the appeal before the CIT(A). However, the ld.CIT(A) has passed a cryptic order without mentioning the date of order passed u/s.144 of the Act and also observed that the assessee not furnished the Grounds of Appeal or the statement of facts as per Column No.11 of Form No.35. Further, the ld.CIT(A) has dismissed the appeal *in limine* for non-prosecution, without discussing anything on merits of the issues. It is the settled mandate of law that ld.CIT(A) is obliged to dispose of the appeal in terms of provision of section 250(6) of the Act framing the points for determination by passing a speaking order along with the reasons for arriving at such decision. In this regard, reference is being made to a decision of the Hon'ble Bombay High Court in the case of *Pr.CIT(Central) Vs. Premkumar Arjundas Luthra (HUF) Bombay*/[2017] 297 CTR 614 (Bombay) wherein it was held that ld.CIT(A) NFAC is obliged to dispose of the appeal on merits even in an *exparte* order.

7. Considering the totality of the facts of the case, I am of the considered opinion that the issue on merit deserve to be remitted back to the ld.CIT(A) for *denovo* adjudication. In view thereof, without dwelling into merits of the issue, the issue on merits is being remitted to the file of ld.CIT(A). Assessee is directed to provide proper email id to the department for receiving the hearing notices from the ITBA portal. Assessee is also directed to remain vigilant and not to take adjournment unless otherwise required for reasonable cause, failing which the ld.CIT(A) shall be free to proceed in accordance with law. Finding of the ld.CIT(A) is set aside and effective ground of appeal raised by the assessee is allowed for statistical purposes.



8. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on this 03rd day of February, 2025.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

पुणे/Pune; दिनांक / Dated : 03rd February, 2025
Satish

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, “(SMC)” बेंच, Kolkata/ DR, ITAT, “(SMC)” Bench, Kolkata.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Assistant Registrar,
ITAT, Kolkata