

IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, KOLKATA

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND SHRI SANAJY AWASTHI, ACCOUNTANT MEMBER**

**ITA Nos. 1409 to 1411/Kol/2024
Assessment Years: 2020-21**

Hooghly Urban Peoples Service Co-operative Society, 381, Chinsurah Pratapur Lane, Hooghly-712101. (PAN: AABAH2228R)	Vs	ITO, Ward-23(1), Hooghly.
(Appellant)		(Respondent)

Present for:

Appellant by : Shri C. M. Roy, CA

Respondent by : Shri Nicholas Murmu, Addl. CIT, DR

Date of Hearing : 26.03.2025

Date of Pronouncement : 26.03.2025

ORDER

Per Bench :

This is an appeal filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals), NFAC, Delhi [hereinafter referred to as “the Ld. CIT(A)”] vide Appeal No. ITBA/NFAC/S/250/2024-25/1065495100(1) dated 10.06.2024 passed u/s. 250 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) for AY 2020-21.

2. Shri C. M. Roy, CA appeared on behalf of the assessee and Shri Nicholash Murmu, Addl. CIT, DR appeared on behalf of the revenue.

3. First, we take up ITA No. 1409/Kol/2024. It was fairly agreed by the Ld. AR that on account of non-checking of the mail due to rural area in which the assessee is operating and the staff being not fully qualified as there have been shortage of staff, the assessment proceedings before the

Assessing Officer and the appeal before the Ld. CIT(A) went unrepresented. It was the prayer that the issue in appeal was only in regard to the excess contribution towards provident fund. It was the submission that this issue can be restored before the Assessing Officer. It was the prayer that the assessee may be granted an opportunity to represent his case before the Assessing Officer.

4. In reply, the Ld. CIT, DR did not raise any serious objection. However, it was argued that a cost is liable to be levied as the time of the department has also been wasted.

5. We have considered the rival submissions. As the assessee has given reasonable ground for non-representation before the Assessing Officer and the Ld. CIT(A) and considering the fact that the assessee is operating in rural area, we are of the view that the issues in this appeal may be restored to the file of the Assessing Officer for adjudication afresh after granting reasonable opportunity of being heard to the assessee, and we do so. However, considering the arguments that the assessee was short of staff it was admittedly the duty of the assessee to appoint proper and competent staff. On this ground, we accept the claim of the revenue and levy a of cost of Rs. 10,000/- to be paid to Legal Aid Services, 3rd floor of the Centenary Building, High Court, Calcutta, 700001, within sixty days from the date of this order and receipt of the same would be produced before the Assessing Officer at the first hearing. Should the assessee not pay the abovementioned costs within the prescribed period of sixty days from the date of this order, the order of the Ld. CIT(A) shall stand confirmed.

6. Now, we take up ITA No. 1410/Kol/2024. In this appeal, the assessee has agitated against the levy of penalty u/s 270A of the Act in regard to the assessment against which the quantum appeal has been filed in ITA No. 1409/Kol/2024. As we have restored the issue to the file of the

Assessing Officer for re-adjudication, the very foundation for the levy of penalty no more survives and consequently, the same is dismissed. However, the liberty is granted to the Assessing Officer to reinitiate the penalty proceeding in the reassessment proceedings if at all any addition is made.

7. Now, we take up ITA No. 1411/Kol/2024. This appeal has been filed by the assessee against the order passed by the Ld. CIT(A) arising out of the order of Assessing Officer passed u/s. 272A(1)(d) of the Act on account of non-representation and no response in respect of the notices issued in the course of assessment. As we have already found reasonable cause mentioned by the assessee in the quantum appeal in ITA No. 1409/Kol/2024 and have restored the issue to the file of the Ld. AO for re-adjudication, the non-representation is found to be on account of reasonable cause and consequently, the penalty levied u/s. 272A(1)(d) stands deleted.

8. In the result, appeal of the assessee in ITA No. 1409/Kol/2024 is partly allowed for statistical purpose, ITA Nos. 1410/Kol/2024 and ITA No. 1411/Kol/2024 stand allowed as indicated above.

Order dictated and pronounced in the open court.

Sd/-
(Sanjay Awasthi)
Accountant Member

Sd/-
(George Mathan)
Judicial Member

Dated: 26th March, 2025

JD, Sr. P.S.

Copy to:

1. The Appellant: Hooghly Urban Peoples Service Co-operative Society
2. The Respondent. ITO, Ward-23(1), Hooghly.
3. CIT(A), NFAC, Delhi
4. Pr. CIT
5. DR, ITAT, Kolkata.
6. Guard file.

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata