

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

BEFORE SHRI RAJESH KUMAR, AM

**ITA No.774/KOL/2024
(Assessment Year:2017-18)**

Sweetmita Roychoudhury
E/619, Baghajatin, Kolkata,
West Bengal, 700086

Vs.

ITO, Ward-4(3)
Aayakar Bhawan Dakshin 2,
Gariahat Road, Kolkata,
West Bengal, 700069

(Appellant)

(Respondent)

PAN No. AAECA5539M

Assessee by : Shri Amit Agrawal, Adv &
Shri Chirag Thoria, Ars
Revenue by : Shri Madhumita Das, DR

Date of hearing: 16.04.2025
Date of pronouncement : 21.04.2025

ORDER

Per Rajesh Kumar, AM:

This is an appeal preferred by the assessee against the order of the Commissioner of Income-tax (Appeals)-12, Mumbai (hereinafter referred to as the "Ld. CIT(A)") dated 13.02.2024 for the AY 2017-18.

02. The only issue raised by the assessee is against the confirmation of addition of ₹1,31,71,180/- by the Id. CIT (A) as made by the Id. AO on account of purchases made in violation of Section 40A(3) of the Act. The Id. Counsel for the assessee at the outset pointed out that the addition has been made by the Id. AO mainly on the basis of admission by the counsel of the assessee in the show cause notice whereas as a matter of fact all these payments were made in part which were not in violation of Provisions as contained in Section 40A(3) of the Act.

03. In the appellate proceedings, the assessee submitted before the Id. CIT (A) that these purchases were paid in installments, however, the Id. CIT (A) dismissed the appeal without giving any finding on this issue merely relying on the admission of the counsel of the assessee before the Id. Assessing Officer. The Id. Counsel for the assessee submitted that the appeal may be restored to the file of the Id. AO for denovo adjudication after looking into the evidences which the assessee has filed evidencing the fact that the payments not exceeding ₹20,000/-.
04. The Id. DR on the other hand stated that these evidences were not produced before the Id. Assessing Officer.
05. After hearing the rival contentions and perusing the materials available on record, I find that in the interest of justice and fair play the assessee's appeal needs to be restored to the file of the Id. AO for denovo adjudication after examining the evidences which the assessee may produce in the set aside proceeding, as the assessee cannot be punished for the admission of the Counsel of the assessee. Taking into account all these evidences, I restore this appeal to the file of the Id. AO with a direction to decide the same denovo after affording reasonable opportunity of hearing to the assessee.
06. In the result, the appeal of the assessee is partly allowed for statistical purposes

Order pronounced in the open court on 21.04.2025.

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated:21.04.2025

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