

**IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH: KOLKATA**  
[Before Shri Mahavir Singh, JM]

**I.T.A No.2375/Kol/2013**  
**Assessment Year: 2007-08**

Sutapa Chatterjee  
(PAN: ACHPC4118L)  
(Appellant)

Vs. Income-tax Officer, Wd-50(3), Kol.  
  
(Respondent)

Date of hearing: 22.02.2016  
Date of pronouncement: 22.02.2016

For the Appellant: N o n e  
For the Respondent: Shri Rajat Kumar Kureel, JCIT, Sr. DR

**ORDER**

This appeal by assessee is arising out of order of CIT(A)-XXXII, Kolkata vide Appeal No. 130/XXXII/09-10/50(3)/Kol dated 08.11.2012. Assessment was framed by ITO, Wd-50(3), Kolkata u/s. 143(3) of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) for Assessment Year 2007-08 vide his order dated 23.12.2009.

2. At the outset, it is noticed that the appeal by assessee is delayed by 251 days and assessee has filed condonation petition stating that the person in charge who looked after the income tax matter suddenly left the job and being a woman taxpayer she had to face hurdles in pursuing him to hand over the files/documents. Ultimately he handed over the files and papers on 11.09.2013 and after that assessee had filed this appeal on 16.09.2013. This unintentional delay was beyond the control of assessee and she requested the bench to condone the delay and admit the appeal for hearing by her letter dated 16.09.2013. In term of the above, Ld. Sr. DR fairly conceded that the delay can be condoned and accordingly, the delay of 251 days is condoned and the appeal is admitted.

3. The first issue in this appeal of assessee is against the order of CIT(A) confirming the action of AO in making addition of commission income at Rs.3,51,346/-.

4. I have heard Ld. Sr. DR and gone through facts and circumstances of the case. I find that the CIT(A) or the AO has not accepted the revised return. But the AO or the CIT(A) should have considered the plea of the assessee in respect to less receipt of commission after examining the documents in which both the authorities failed. In such circumstances, I set aside this issue to the file of the AO to re-decide the same after taking evidence from the assessee.

Assessee should be given ample opportunity of hearing also. This issue of assessee's appeal is allowed for statistical purposes.

5. The next two issues are in regard to disallowance of telephone expenses at Rs.38,627/- and diesel expenses of Rs.78,600/- confirmed by CIT(A). I find that both the expenses i.e. telephone expenses and diesel expenses were added by the AO on estimate basis. The assessee has incurred telephone expenses for the reason that the bill is in the name of husband of the assessee. Secondly, the diesel expenses were disallowed for the reason that the car is on rent. The CIT(A) also confirmed the disallowance by cryptic order. I find that this issue also needs re-examination. Hence, I set aside the orders of lower authorities and restore the issues to the file of AO for fresh examination and to pass a speaking order after affording reasonable opportunity of being heard to the assessee. These issues of assessee's appeal are allowed for statistical purposes.

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

Order pronounced in the open court.

Sd/-  
(Mahavir Singh)  
Judicial Member

Dated : 22<sup>nd</sup> February, 2016

Jd. Sr. P.S

Copy of the order forwarded to:

1. Appellant – Sm. Sutapa Chatterjee, CD-100, Sector-1, Salt Lake City, Kolkata-700064.
2. Respondent – ITO, Ward-50(3), Kolkata.
3. CIT(A) , Kolkata
4. CIT , Kolkata
5. DR, Kolkata Benches, Kolkata

/True Copy,

By order,

Asstt. Registrar.