

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'सी', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA

श्री संजय गर्ग, न्यायिक सदस्य एवं श्री गिरीश अग्रवाल, लेखा सदस्य के समक्ष
Before Shri Sanjay Garg, Judicial Member and Shri Girish Agrawal, Accountant Member

I.T.A. No.105/Kol/2022
Assessment Year: 2008-09

Salem Erode Investments Ltd.....Appellant
14, Motilal Nehru Road,
Kolkata-700029.
[PAN: AADCS5921L]

vs.

ACIT, Circle-7(2), Kolkata.....Respondent

Appearances by:

Shri H.V. Bhardwaj, FCA, appeared on behalf of the appellant.

Shri Vijay Kumar, Addl. CIT, appeared on behalf of the Respondent.

Date of concluding the hearing : November 23, 2022

Date of pronouncing the order : December 12, 2022

आदेश / ORDER

संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 28.12.2021 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act'). The assessee in this appeal has taken the following grounds of appeal:

- “ 1. That the Ld. CIT(A) has erred in law and on facts by passing an ex parte order and without giving proper opportunity of being heard.
2. That the Ld. CIT(A) has further erred in law and on facts by confirming the Assessing Officer's order of rejecting the rectification petition filed u/s 154 of the Act.
3. That the appellant craves leave to add, to amend, or withdraw all or any ground or grounds of appeal at the time or before the hearing of the appeal.”

2. The brief facts of the case are that the return of the assessee was processed u/s 143(1) of the Act assessing the total income of the assessee under normal provisions of the Act at Rs.50,82,030/-. However, the income under MAT provisions u/s 115JB was assessed at Rs.60,02,583/-. Thereafter, the assessee moved a rectification application u/s 154 of the Act to the Assessing Officer stating therein that in the online ITR form, the assessee by mistake has not deducted the long-term capital gains of Rs.5706523/- from the total income of the assessee which was exempt from taxation. That the said claim was duly decipherable from the copy of balance sheet, copy of computation of total income, details of long-term gains, copy of the short-term loss and the other columns of the return of income itself. However, the Assessing Officer declined to amend the assessment order on the ground that the assessee has not reflected the long-term capital gains in the relevant column of the ITR. The Id. CIT(A) also dismissed the appeal of the assessee by way of an ex parte order.

3. Being aggrieved, the assessee has come in appeal before us. The Id. counsel for the assessee has invited our attention to the various columns of the return of income to submit that though the assessee inadvertently could not reflect the long-term capital gains in the relevant column "5 of Schedule BP" of the ITR. However, the assessee under the column "Part B" of the ITR has mentioned the tax payable at normal rates as nil. Since the tax was payable by the assessee on the MAT income of Rs.5672407/- and not on regular income and that since there was no interlinking between different columns in the ITR software of the Department, the said claim remained to be entered in the relevant column, however, the same was very much deciphered from the balance sheet , copy of computation of total income, details of long-

term gains, short-term loss etc. furnished along with the return of income.

4. After hearing the ld. representatives of the parties, we find that it is a case of mistake apparent on record which needs to be rectified at the end of the Assessing Officer. It has been held time and again that Income Tax authorities should charge only legitimate and due tax from the assessee and that the assessee should not be punished for their bona fide mistakes or errors. We note that copy of ITR form furnished before us is highly complicated and since the different column of the ITR was not interlinked, therefore, there was no auto-correction and hence there was mismatch of figures in the relevant/corresponding columns of ITR. The mistake occurred in not filling the relevant column apparently is a bona fide mistake, for which the assessee should not be burdened with the tax, which it otherwise not liable to pay.

We accordingly set aside the impugned order of the CIT(A) and restore the matter to the file of Assessing Officer with a direction to examine and verify the claim of long-term capital gains of the assessee and if found admissible, to allow the same accordingly.

5. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Kolkata, the 12th December, 2022.

Sd/-

[गिरीश अग्रवाल /Girish Agrawal]

लेखा सदस्य/Accountant Member

Sd/-

[संजय गर्ग /Sanjay Garg]

न्यायिक सदस्य/Judicial Member

Dated: 12.12.2022.

RS

Copy of the order forwarded to:

1. Salem Erode Investments Ltd
2. ACIT, Circle-7(2), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches