

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

[Before Hon'ble Shri J.Sudhakar Reddy, AM]

ITA No.553&554/Kol/2017
Assessment Years : **2011-12 & 2012-13**

Shri Hari Prasad Hela
Kolkata
(PAN: ABZPH 2718 N)
(Appellant)

-versus-

I.T.O., Ward-25(1)
Kolkata

(Respondent)

For the Appellant: None

For the Respondent: Shri Kalyan Nath, Addl.CIT(DR)

Date of Hearing : 29.09.2017.

Date of Pronouncement : 31.10.2017.

ORDER

PER J.SUDHAKAR REDDY, AM:

These are appeals filed by the Assessee directed against the order of the Commissioner of Income Tax-(A)-7, Kolkata relating to A.Y. 2011-12.

2. The assessee is an individual and earns commission income from related associate companies for procuring customers and for collecting money for customer, for sale of plots. He filed return of income for A.Y.2011-12 and 2012-13 and claimed expenditure of Rs.10,57,628/- for A.Y.2011-12 and Rs.10,57,628 for A.Y.2012-13. The AO disallowed the same on the ground that no evidence in support of this claim was furnished and also there is no direct nexus between the expenditure incurred and the income earned. The assessee had offered the income under the head 'Other sources' and claimed deduction u/s 57 of the Income Tax Act, 1961 (Act).

3. On appeal the First Appellate Authority confirmed the disallowance and dismissed the appeals.

4. Aggrieved the assessee is in appeal before me. None appeared on behalf the assessee. Under the circumstances I dispose off the case ex-parte qua the assessee, on merits after hearing the ld. DR.

5. On hearing the Id. DR, in my view the commission income is assessable under the head Income from Business and not under ' Other sources' . The assessee would have definitely, incurred expenses for earning this income. The AO records at para-3 of his order that the assessee produced documents in relation to expenses incurred to earn income. The assessee has declared net profit @29% for A.Y.2011-12 and 25% for A.Y.2012-13. The AO assessed the same @ 78.74% for A.Y.2011-12 and 64.76% for A.Y.2012-13

6. Keeping in view of the facts and circumstances of the case, and as the assessee could not substantiate the expenditure in question I am of the view that interest of justice would be met if income for both the assessment years be assessed @ 40% of the gross receipts.

7. In the result both the appeals of the assessee are allowed in part.

Order pronounced in the Court on 31.10.2017.

Sd/-
[J.Sudhakar Reddy]
Accountant Member

Dated :31.10.2017.

[RG PS]

Copy of the order forwarded to:

- 1.Shri Hari Prasad Hela, 12/6/B, Vivekananda Park, (Near Sonali Park Stilala Mandir, Banskroni, Kolkata-700070.
2. I.T.O., Ward-25(1), Kolkata
3. C.I.T.(A)-7, Kolkata 4.C.I.T-9, Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

True Copy

By order,

Senior Private Secretary
Head of Office/D.D.O, ITAT Kolkata Benches

