

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

Before **Shri S.S, Godara, Judicial Member**

ITA No.1599/Kol/2018
Assessment Year:2012-13

Selehium Trading Pvt. Ltd., 41, B.B.Ganguly Street, Unit No.A7, 1 st Floor, Bowbazar, Kolkata-700012 [PAN No.AADCS 7717 E]	बनाम/ V/s.	Income Tax Officer, Ward-1(3), Aayakar Bhawan, P-7, Chowringhee Square, Kolkatas-69
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	Shri Miraj D Shah, Advocate
प्रत्यर्थी की ओर से/By Respondent	Shri Robin Choudhury, Addl. CIT-DR
सुनवाई की तारीख/Date of Hearing	05-11-2018
घोषणा की तारीख/Date of Pronouncement	16-11-2018

आदेश /O R D E R

This assessee's appeal for assessment year 2012-13, arises against the Commissioner of Income-tax (Appeals)-1, Kolkata's order dated 29.05.2018 passed in case No.1687/CIT(A)-1/Ward-1(3)/2015-16 involving proceedings u/s. 143(3) of the Income Tax Act, 1961; in short 'the Act'.

2. It is noticed at the outset that the CIT(A) has passed his lower appellate order ex parte thereby affirming Assessing Officer's action invoking sec.36(1)(iii) r.w.s 14A r.w.s. 8D disallowing of loss in foreign exchange through MCX involving respective figures of ₹13,26,921/-, ₹66,365 & 16,36,911/- respectively. Mr. Choudhury's case is that CIT(A) has rightly upheld the assessment findings since the assessee had not put in appearance during the lower appellate proceedings. I find that CIT(A) has declined the assessee's appeal not on merits but on account of non-appearance. I therefore

deem it appropriate in this facts and circumstances that on larger interest would be made in case the CIT(A) has adjudicated all the three issues on merits after affording adequate opportunities of hearing. The assessee had not sought any adjournment in the impugned second round as a matter of routine.

3. This assessee's appeal is accepted for statistical purpose.

Order pronounced in open court on 16/11/2018

Sd/-
(S.S. Godara)
Judicial Member

Kolkata,

*Dkp/Sr.PS

दिनांक:- 16/11/2018 कोलकाता

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. अपीलार्थी/Appellant-Selehium Trading Pvt. Ltd, 41, B.B.Ganguly Street,
Unit No.A7, 1st Floor, Bowbazar, Kolkata-12
2. प्रत्यर्थी/Respondent-ITO Ward-1(3),Aayakar Bhawan, P-7, Chowringhee Sq. Kol-69
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
कोलकाता ।