

आयकर अपीलिय अधीकरण, न्यायपीठ – “C” कोलकाता,
*IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH “C” KOLKATA*

Before **Shri S.S.Godara, Judicial Member** and
Dr. A.L. Saini, Accountant Member

ITA No.236/Kol/2018
Assessment Year :2011-12

M/s Shardaraj Tradefin Ltd., 1, Crooked Lane, 1 st Floor, Room No.109, Kolkata-69 [PAN No.AAECS 8217 J]	V/s.	Income Tax Officer, Ward-1(3), Aayakar Bhawan,a P-7, Chowringhee Square, Kolkatas-69
अपीलार्थी /Appellant	..	प्रत्यर्थी/Respondent

अपीलार्थी की ओर से/By Appellant	None
प्रत्यर्थी की ओर से/By Respondent	Shri Saurabh Kumara, Addl. CIT-DR
सुनवाई की तारीख/Date of Hearing	17-01-2019
घोषणा की तारीख/Date of Pronouncement	31-01-2019

आदेश /O R D E R

PER S.S.Godara, Judicial Member:-

This assessee's appeal for assessment year 2011-12 arises against the Commissioner of Income Tax (Appeals)-19 Kolkata's order dated 29.11.2017 passed in case No.154/CIT(A)-19/Kol/2015-16, involving proceedings u/s 143(3) of the Income Tax Act, 1961; in short 'the Act'.

Case called twice. None appears at assessee behest. The registry has already sent an RPAD notice dated 13.12.2018 for today's hearing. It is accordingly proceeded ex parte. We take up the instant appeal on merits.

2. The assessee's former substantive ground seeks to revive both the lower authorities action disallowing its loss of ₹,1,30,10,266/- claimed on trading loss in F&O's transactions to be lacking genuineness. It transpires during the course of hearing that relevant contract notes coming from M/s

NKB Securities were unsigned without having even contract notes stamp. It further emerged that the impugned entire loss amount incurred during the financial year was shown as outstanding in the name of M/s NKB Securities under the head "sundry credits". The Assessing Officer found many discrepancies in assessee's explanation that the ledger was unsigned there was no payment or receivables, there was no margin money paid and that there were mere journal entries in the ledger. The Assessing Officer had necessary correspondence with M/s NKB Securities as well as National Stock Exchange India Ltd. to conclude that the assessee's loss claim was a bogus one. He accordingly added back the impugned sum as affirmed during the course of lower appellate proceedings. The above clinching finding of facts have gone unrebutted during the course of hearing before us as well. There is no material in the case file which would suggests that the assessee's F&O transactions through M/s NKB Securities are genuine. We thus decline assessee's former substantive ground on this count alone.

3. Next comes assessee's latter substantive ground seeking to delete sec. 14A r.w.s. Rule 8D disallowance of ₹5,17,858/-. Suffice to say, it transpires during the course of hearing that the assessee had not derived any exempt income in the relevant previous year. Hon'ble jurisdictional high court's decision in *CIT vs. M/s Ashika Global Securities Ltd.* ITAT 100 of 2014 **GA No.2122 of 2014** decided on 11.06.2018 holds that section 14A r.w.s. 8D Rule disallowance provision does not apply in absence of any exempt income derived in the relevant previous year. We therefore accept assessee's latter substantive ground.

4. This assessee's appeal is partly allowed.

Order pronounced in the open court 31/01/2019

Sd/-

Sd/-

(लेखा सदस्य)

(न्यायिक सदस्य)

(Dr.A.L. Saini)

(S.S.Godara)

(Accountant Member)

(Judicial Member)

Kolkata,

*Dkp, Sr.P.S

दिनांक:- 31/01/2019

कोलकाता ।

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

1. अपीलार्थी/Appellant-M/s Shardarj Tradefn Ltd. 1, Crooked Lane, 1st Fl. R.No.109, Kol-69
2. प्रत्यर्थी/Respondent-ITO Wd-1(3), Aayakar Bhawan, P-7, Chowringhee Sq. Kolkata-69
3. संबंधित आयकर आयुक्त / Concerned CIT Kolkata
4. आयकर आयुक्त- अपील / CIT (A) Kolkata
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 ।