

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH KOLKATA

[Before Sri S. S. Godara, Judicial Member]

आयकर अपीलसं./I.T.A No.1440/Kol/2019

(निर्धारण वर्ष / Assessment Year: 2012-13)

Chittaranjan Panja C/o. Subash Agarwal & Associates, Advocates Siddha Gibson, 1, Gibson Lane, Suite 213, 2 nd Floor, Kolkata – 7000069.	Vs.	ITO, Ward-37(4), Kolkata
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AFHPP8207N		
(Appellant)	..	(Respondent)

Appellant by : Shri M. D. Shah, Advocate

Respondent by : Shri Dhruvajyoti Ray, JCIT, Sr. DR

सुनवाई की तारीख/ Date of Hearing : 11/11/2019

घोषणा की तारीख/Date of Pronouncement : 15/11/2019

आदेश / ORDER

Per Shri S. S. Godara:

This assessee's appeal for assessment year 2012-13 arises against the Commissioner of Income Tax (A) - 25, Kolkata order dated 08.05.2019 passed in case No.275/CIT(A)-25/Kol/2018-19 involving proceedings u/s 143(3) of the Income Tax Act, 1961 (in short 'the Act').

Heard both the parties. Case file perused.

2. The assessee's sole substantive grievance challenges correctness of both the lower authorities' action disallowing loss of Rs.14,59,714/- on account of trading in gold bars in certain months. I notice at the outset with the assistance of ld. counsel that the CIT(A)'s order in page no.11 has tabulated the assessee's losses to be pertaining to August-11, October-11 to December-11 and March-2012 months on cash sales. It is vehemently contended at the Revenue's behest that both the

lower authorities have rightly disallowed the assessee's losses more particularly in view of the fact that he had not booked the corresponding sums as income for longer duration of time going by the transaction details. It fails to rebut the clinching fact that both the lower authorities have adopted mutual contradictory approach in accepting the assessee's sales involving positive figures and disallowed the said five months' negative figures in issue only. Mr. Agarwal's case on the other hand is that the assessee had filed all the relevant details in support of his losses on cash sales involved.

3. After giving my thoughtful consideration to the rival pleadings as well as assessee's detailed paper book against and in support of the impugned addition, I find no reason to concur with either party's submissions in entirety. The fact remains that neither the assessee has been able to substantiate the loss making transaction item/customer wise nor the departmental authorities have any explanation in support of their above-stated mutual contradictory approach. I therefore deem it appropriate in these peculiar facts that a lumpsum addition of Rs.1,50,000/- would meet the ends of justice with a rider that same shall not be treated as a precedent in any other case. The assessee gets relief to the tune of Rs.13,09,714/-. Necessary computation to follow as per law.

4. This assessee's appeal is partly allowed in above terms.

Order is pronounced in the open court on 15.11.2019.

Sd/-
(S. S. Godara)
JUDICIAL MEMBER

कोलकाता /Kolkata;

दिनांक/ Date:15/11/2019

(RS, Sr.PS)

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. The Appellant - Chittaranjan Panja
2. The Respondent- ITO, Ward-37(4), Kolkata
3. आयकरआयुक्त(अपील) / The CIT(A), Kolkata [sent through email]
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, कोलकाता/ DR, ITAT, Kolkata [sent through email]
6. गार्डफाईल / Guard file.
सत्यापितप्रति

True Copy

By Order

Assistant Registrar,
I.T.A.T, Kolkata Benches,
Kolkata.