

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'SMC' NEW DELHI**

BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER

I.T.A. No. 1088/Del/2019
Assessment Year: 2014-15

Franklin Leasing and Finance Ltd.,
Shop No. 205, 2nd Floor, Agarwal
City Mall Road No. 44, Pitampura,
New Delhi
(PAN:AAACF0784B)
(ASSEESSEE)

vs. INCOME TAX OFFICER,
WARD 27(1), NEW DELHI

(RESPONDENT)

Assessee by: None

Revenue by: Sh. Pradeep Singh Gautam, Sr. DR.

ORDER

This appeal is filed by the assessee against the Order dated 24.07.2018 passed by the Ld. CIT(A)-3, Delhi relating to Assessment Year 2014-15 on the following grounds:-

1. *On the facts and circumstances of the case, the order passed by the Ld. Commissioner of Income Tax (Appeals) and Ld. AO is bad both in the eye of law and on facts.*
2. *That the Ld. CIT(Appeal) has grossly erred on the facts and in law in passing the impugned order without giving a sufficient and a proper opportunity to the assessee to be heard. The impugned order is passed in the violation of principles of natural justice.*
3. *That the Ld. CIT(Appeal) has erred on the facts and in law in passing the ex-part order without taking into consideration the submission of the appellant during assessment proceedings and merely reproduced the findings of the assessing officer.*
4. *(i) That the Ld. AO has erred on the facts and in law in making disallowance of short-term capital loss of Rs.25,64,399/- based on material collected at the back of the appellant and without confronting the same and giving an opportunity to the appellant to rebut the same.*

(ii) That the Ld. CIT(A) has erred on the facts and in law in confirming the aforesaid additions.

5. *(i) On the facts and circumstances of the case, the Ld. AO and CIT(A) has erred both on facts and in law in making disallowance of short-term capital loss of Rs.25,64,399/- claimed on sale of shares, on account of treating the said loss as bogus and as same the order passed is bad in the eyes of law and liable to be quashed.*

(ii) That the Ld. AO and CIT(A) has erred both on facts and in law in holding that short-term capital loss of Rs.25,64,399/- represented as an accommodation entry to infuse unaccounted money in the books of accounts.

6. *(i) On the facts and circumstances of the case, the Ld. AO and CIT(A) has erred both in facts and law in arbitrarily rejecting the explanation and evidences submitted by the appellant in support of the short-term capital loss incurred by the appellant during the year.*

(ii) That the aforesaid disallowance has been made despite the fact that genuineness of the transaction of sale of shares was duly established on record.

7. *That on the facts and circumstances of the case the Ld.AO/Ld. CIT (A) has erred in making/confirming addition of Rs.35,336/- on account of interest received on income tax refund not disclosed in the books of accounts.*

8. *That the interest charged u/s 234B on the tax calculated on the assessed income is not sustainable in law and facts of the case.*

2. This appeal filed by the assessee. Registry issued notice by RPAD to the assessee on the address given by the assessee in Form No. 36. In spite of the same, neither assessee nor its authorized representative appeared nor filed any application for adjournment. Keeping in view of the facts and circumstances of the present case, I am of the view that no useful purpose would be served to issue notice to the assessee again and again, therefore, in the interest of justice, I am deciding the appeal exparte assessee after hearing learned DR and perusing the records.

3. I have gone through the orders passed by the Revenue authorities especially the impugned order dated 24.07.2018 passed by the learned CIT(A) and I find that learned First Appellate Authority has dismissed the

appeal of the assessee ex parte by not providing sufficient opportunity to the assessee. Therefore, in the interest of justice, I set aside the issues in dispute to the file of learned First Appellate Authority to decide the same fresh, as per law, after giving sufficient opportunity to the assessee of being heard.

4. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 18/12/2019.

Sd/-

**[H.S. SIDHU]
JUDICIAL MEMBER**

Date: 18/12/2019

SH

Copy forwarded to: -

1. Appellant -
 2. Respondent -
 3. CIT
 4. CIT (A)
 5. DR, ITAT
- TRUE COPY

By Order,

Assistant Registrar, ITAT, Delhi Benches