

| आयकर अपीलिय अधिकरण न्यायपीठ, कोलकाता |
IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, KOLKATA

BEFORE SHRI SANJAY GARG, HON'BLE JUDICIAL MEMBER
&
DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER

I.T.A. No. 349/Kol/2023
Assessment Year: 2011-12

Jayant Masrani (HUF) 410, Darpan Apartment, Golpark 50A, Purna Das Road Kolkata - 700029 [PAN : AAFHJ4906F]	Vs	Income Tax Officer, Ward-30(2), Kolkata
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri S. Sadhu, Advocate
Revenue by :	Shri Vijay Kumar, Addl. CIT

सुनवाई की तारीख/Date of Hearing : 25/05/2023
घोषणा की तारीख /Date of Pronouncement: 06/06/2023

आदेश/ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

This is the appeal preferred by the assessee against the order of the National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred to as the Id. CIT(A)"), passed u/s 250 of the Income-tax Act, 1961 (hereinafter the 'Act'), dated 13/02/2023 for the Assessment Year 2011-12.

2. Though the assessee has raised two grounds, but the effective grievance of the assessee is that the Id. CIT(A) has erred in not deleting the addition of Rs.1,29,442/- without considering the fact that profit from commodities and speculation profit of Rs.1,29,347/- has already been considered as income.

3. At the outset, the Id. Counsel for the assessee submitted that in the re-assessment proceedings carried out after issuing notice u/s 148 of the Act against the returned income of Rs. 1,63,290/-, an addition was made for commodity profit of Rs.1,25,427/- and speculation profit of Rs. 3,967/-. It

was further submitted that in the original computation of income under the head income from other sources, income was offered at Rs.1,00,489/- which included interest income of Rs.1,124/- and others, gross earning of Rs.99,365/- and this other income comprised of the commodity profit and speculation profit. However, since the last amount was offered to tax, therefore, revised computation was filed and total speculation amount as observed by the Assessing Officer i.e., Rs. 1,29,347/- was offered to tax and, therefore, no addition is called for.

3.1. The Id. D/R vehemently argued and supported the order of the lower authorities.

4. We have heard rival contentions and perused the material placed before us.

5. We notice that the assessee filed the return of income on 31/03/2012, declaring total income of Rs.1,63,290/- which comprised of short term capital gain amounting to Rs.62,801/- and income at Rs.1,00,489/- (interest income of Rs.1,124/-) and other income of Rs.99,365/-. We further notice that subsequent to the information received by the Id. Assessing Officer, notice u/s 148 of the Act was issued and case of the assessee was re-assessed and the assessee was showcaused as to why not the income towards commodity profit of Rs.1,25,427/- and speculation profit of Rs.3,967/- to be not added to the income of the assessee. The assessee filed a revised computation of income but the claim was not accepted by the Id. Assessing Officer and thereafter by the Id. CIT(A). Before us, assessee has drawn our attention to the various details filed before the lower authorities placed in the paper book containing 17 pages. From perusal of these details,

we notice that in the original return of income, the assessee has shown the income from other sources (other than interest) at Rs.99,365/-. There was no specific head attached with this other income. Thereafter during the course of re-assessment proceedings when the assessee was confronted with the alleged sum of Rs.1,29,442/-, he revised the computation of income and in place of the income from other sources at Rs.99,365/-, speculation amount of Rs.1,29,347/- was offered and due taxes were paid thereon. Under these given facts and circumstances, and considering that the assessee did not state any specific sources of income for Rs.99,365/- in the original return and thereafter included the same as a part of speculation amount of Rs.1,29,347/-, we do not find it justified that the addition of Rs.1,29,347/- is again made in the hands of the assessee when it has already been offered to tax. Hence, we set aside the finding of the Id. CIT(A), delete the addition and allow the ground raised by the assessee.

6. In the result, appeal of the assessee is allowed.

Order pronounced in the Court on 6TH June , 2023 at Kolkata.

Sd/-

**(SANJAY GARG)
JUDICIAL MEMBER**

Sd/-

**(MANISH BORAD)
ACCOUNTANT MEMBER**

Kolkata, Dated 06/06/2023

**Sd/-*

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आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata