

**THE INCOME TAX APPELLATE TRIBUNAL,
'C' BENCH, KOLKATA**

**Before Shri Rajpal Yadav, Vice-President (KZ)
&
Shri Rajesh Kumar, Accountant Member**

**I.T.A. No. 455/KOL/2024
Assessment Year: 2012-2013**

***Little Star Commodities Pvt. Limited,.....Appellant
76, G.T. Road, Bally,
Howrah-711201
[PAN:AACCL0083F]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-6(2), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700069***

Appearances by:

*Shri R.K. Agrawal, A.R., appeared on behalf of the
assessee*

*Shri Jitendra Kantilal Surti, JCIT, Sr. D.R., appeared on
behalf of the Revenue*

Date of concluding the hearing : August 12, 2024

Date of pronouncing the order : August 20, 2024

O R D E R

Per Rajpal Yadav, Vice-President (KZ):-

The present appeal is directed at the instance of assessee against the order of ld. Commissioner of Income Tax (Appeals),

National Faceless Appeal Centre (NFAC), Delhi dated 27th January, 2024 passed for Assessment Year 2012-13.

2. The solitary grievance of the assessee is that ld. CIT(Appeals) has erred in confirming the penalty amounting to Rs.1,99,911/- levied under section 271(1)(c) of the Income Tax Act.

3. Brief facts of the case are that the assessee has filed its return of income on 04.09.2012. The assessee had disclosed a commission income of Rs.1,34,000/-. It has been alleged by the ld. Assessing Officer that the assessee had provided accommodation entry and from that activity shown commission @ 0.05%, i.e. half percent. The ld. Assessing Officer was of the view that half-percent of the commission is on the lower side and, therefore, he estimated the commission @0.10%, in other words @ 1%. The ld. Assessing Officer in this way determined the alleged commission income of the assessee at Rs.7,80,955/-. The ld. Assessing Officer has initiated the penalty proceeding against the assessee under section 271(1)(c) of the Income Tax Act, on the addition of Rs.6,46,955/-, alleged commission income. He imposed a penalty of Rs.1,99,911/-, which is equivalent to 100% of tax sought to be evaded by the assessee.

4. Appeal to the ld. CIT(Appeals) did not bring any relief to the assessee.

5. With the assistance of ld. Representatives, we have gone through the record carefully. Though earning of alleged

commission income by providing accommodation entry in itself is a doubtful activity, but Id. Assessing Officer has not doubted this activity. He has accepted the alleged commission income of the assessee in providing accommodation entry of huge sum of Rs.78.9 crores. He only made changes that instead of half percent, it should be 1% of commission income. The assessee should have earned in this activity. To our mind, the income of the assessee has been revised on an estimate basis, which is based on difference of opinion without any scientific method. Therefore, on such an issue the Id. Assessing Officer as well as by the Id. CIT(Appeals) should have not been visited the assessee with penalty. Accordingly, we allow this appeal of the assessee and delete the penalty.

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

Order pronounced in the open Court on 20/08/2024.

Sd/-

(Rajesh Kumar)
Accountant Member

Sd/-

(Rajpal Yadav)
Vice-President (KZ)

Kolkata, the 20th day of August, 2024

*Copies to :(1) Little Star Commodities Pvt. Limited,
76, G.T. Road, Bally, Howrah-711201*

*(2) Income Tax Officer,
Ward-6(2), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square, Kolkata-700069*

- (3) *Commissioner of Income Tax (Appeals),
National Faceless Appeal Centre (NFAC),
Delhi;*
- (4) *CIT - , Kolkata;*
- (5) *The Departmental Representative;*
- (6) *Guard File*
- TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.