

आयकर अपीलीय अधिकरण  
कोलकाता 'बी' पीठ, कोलकाता में  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'B' BENCH, KOLKATA**

श्री संजय गर्ग, न्यायिक सदस्य  
एवं

श्री संजय अवस्थी, लेखा सदस्य  
के समक्ष

Before

**SRI SANJAY GARG, JUDICIAL MEMBER  
&  
SRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No.: 1050/KOL/2023  
Assessment Year: 2014-15**

***Brijdham Mercantile Private Limited.....Appellant  
[PAN: AADCB 5445 N]***

**Vs.**

***ITO, Ward-5(3), Kolkata.....Respondent***

**Appearances:**

***Assessee represented by: Miraj D. Shah, A/R.***

***Department represented by: P.P. Barman, Addl. CIT, Sr. DR.***

Date of concluding the hearing : August 29<sup>th</sup>, 2024

Date of pronouncing the order : September 2<sup>nd</sup>, 2024

**ORDER**

**Per Sanjay Awasthi, Accountant Member:**

In this case, the return of income was filed on 27.09.2014 at "NIL" income. The case was selected for scrutiny and through a detailed order dated 20.12.2016 the Assessing Officer (hereinafter referred to as ld. 'AO') held Rs. 14,88,670/- as allegedly bogus trading loss and disallowed the same. The impugned figure is comprised of trading loss of Rs. 11,98,420/- and Rs. 2,90,250/- on account of under-valuation of closing stock of shares. This matter travelled up to the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as ld. 'CIT(A)'] where through order dated

28.07.2023 he upheld the action of the ld. AO. A perusal of the impugned order reveals that allegedly the appellant was provided with as many as six opportunities of hearing over a period of about two years but there was no compliance at all to such notices of hearing.

1.1. Aggrieved with this action, the appellant has approached the ITAT.

2. Right at the outset, ld. A/R stated that the notices for hearing were apparently issued in such a manner that none of them were received by the appellant for effecting any compliance. Ld. A/R also pointed out that on page 8 of the ld. AO's order it is recorded that the addition was made on the basis of certain documentary evidences available with the ld. AO, circumstantial evidences and "human conduct and preponderance of probabilities". It was also averred that the assessee was not given any worthwhile opportunity to examine the material available with the ld. AO or to even cross-examine any witnesses that might have given any statement leading to the impugned addition and the first three grounds of appeal are specifically on this issue.

2.1. Ld. D/R observed that the ld. AO has passed a detailed, reasoned order but since the appellant could not avail of any opportunity for presenting his case before the ld. CIT(A), he would not have any objection if in case, this matter is remanded back.

3. We have carefully considered the submissions and gone through the impugned order with the help of ld. A/R and ld. D/R. It is seen that ld. AO has apparently relied on reports from the Investigation Wing and some other material to arrive at an adverse conclusion *vis-à-vis* the appellant. Since the appellant did not get any opportunity to present his case before the ld. CIT(A), it would be in the fitness of things to remand back this matter to the file of ld. CIT(A) for adjudication on the amount added as bogus trading loss. Needless to say, the ld. CIT(A) would provide an opportunity to the appellant for presenting any evidences or documents that he may need for explaining his case. With this remark, the case is set aside to Ld. CIT (A).

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

**Order pronounced in the open Court on 2<sup>nd</sup> September, 2024.**

Sd/-  
**[Sanjay Garg]**  
Judicial Member

Sd/-  
**[Sanjay Awasthi]**  
Accountant Member

Dated: 02.09.2024

*Bidhan (P.S.)*

*Copy of the order forwarded to:*

- 1. Brijdham Mercantile Private Limited, 23A Netaji Subhash Road, 8<sup>th</sup> Floor, Room No 4, Dalhousie, Kolkata, West Bengal, 700001.**
- 2. ITO, Ward-5(3), Kolkata.**
- CIT(A)-NFAC, Delhi.
- CIT-
- CIT(DR), Kolkata Benches, Kolkata.

*//True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata