

**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH KOLKATA**

**Shri Manish Borad, Accountant Member  
Shri Sonjoy sarma, Judicial Member**

**I.T.A. No. 1265/Kol/2024  
Assessment Year: 2015-16**

**Topgrain Vyapaar Private Limited,**

91, Amalansu Sen Road,  
Ground Floor, Kolkata - 700048

[PAN: AA ACT9621R] ..... **Appellant**

**vs.**

**Income Tax Officer, Ward 1(3),**

Aayakar Bhawan, P-7,  
Chowringhee Square,

Kolkata - 700069 ..... **Respondent**

**Appearances by:**

Assessee represented by : None

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

Date of concluding the hearing : September 05, 2024

Date of pronouncing the order : September 11, 2024

**ORDER**

**Per Sonjoy Sarma, Judicial Member:**

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2015-16 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 10.11.2023 arising out of Assessment Order dated 26.12.2017, passed under Section 144 of the Act.

2. The Assessee has raised the following grounds of appeal:

*"1. That the order of the Ld. CIT(Appeals) and Ld. Assessing Officer are bad in law and on facts of the case and is full of biased and preconceived notions regarding share capital raising and its modus operandi.*

*2. That the Ld. CIT(Appals) erred in confirmed disallowance of trading loss of 7669790/- without appreciating the submission of the Assessee.*

*3. That the Ld. CIT(Appeals) erred in confirming addition of Rs. 257330/- u/s 14A without considering the statement of facts and submission of the Assessee.*

*4.. That the appellant craves to add or alter any grounds of appeal during the proceeding of appeal."*

3. At the time of hearing, Ld. AR stated that there is delay of 147 days in filing the appeal before the Tribunal. On this aspect assessee had filed petition praying for condonation of such delay.

4. We after perusing application filed by the assessee, find that there is a reasonable cause for the delay in filing the appeal by the assessee, considering the same, we condone such delay in filing the appeal by the assessee.

5. At the time of hearing, no one turned up on behalf of the assessee.

6. Brief facts of the case are that the assessee is a company dealing in share and securities and filed its return of income for the AY 2015-16. Subsequently, the case of the assessee was selected for scrutiny. The Ld. AO completed the assessment order u/s 144 of the Act due to the fact that the company did not comply with the various notices issued by the AO. Therefore, the Ld. AO from income tax return, noticed that there was an interest income of Rs. 80,06,138/- along with other income of Rs. 35,583/-. He also found that there was a loss arising on purchase and sale along with opening and closing stock. However, the nature of trade was not known to the Ld. AO as apparent from the order. Accordingly, he

concluded that this loss has been fabricated to set off the interest income and therefore disallowed the loss of Rs. 76,69,790/- as in the case of the assessee. The Ld. AO has added a sum of Rs. 2,57,330/- u/s 14A of the Act.

7. Dissatisfied with the above order, the assessee preferred an appeal before the Ld. CIT(A), where the appeal of the assessee was dismissed due to non-appearance on the various date of hearing before the Ld. CIT(A). Therefore, the Ld. CIT(A) had passed an ex-parte order against the assessee by sustaining the addition as made in the case of the assessee.

8. Aggrieved by the order, the assessee is in appeal before this Tribunal raising multiple grounds. However, the main grievance of the assessee is that the impugned order was an ex-parte order, therefore, no opportunity was given to the assessee in order to substantiate its claim before the authority below.

9. We after hearing the matter with the assistance of Ld. DR and perusing the material available on record, we find that the instant impugned order passed against the assessee was an ex-parte order although notices were issued time to time to the assessee, while passing the impugned order by the Ld. CIT(A). However, the assessee did not turn up before the Ld. CIT(A) even before us, no one turned up in order to substantiate its claim. We therefore, considering the facts of the case and interest of natural justice and fair play to both the parties, it is necessary to remand back the whole issue to the file of the Ld. CIT(A) with a direction to re-examine the issue afresh after giving a reasonable opportunity of being heard to the assessee. In terms of the above, appeal of the assessee is allowed for statistical purposes.

10. In the result, appeal of the assessee is allowed for statistical purposes.

***Kolkata, the 11<sup>th</sup> September, 2024.***

***Sd/-***  
**[Manish Borad]**  
**Accountant Member**

***Sd/-***  
**[Sonjoy Sarma]**  
**Judicial Member**

Dated: .09.2024.  
*AK, PS*

*Copy of the order forwarded to:*

- 1 Topgrain Vyapaar Private Limited,
2. Income Tax Officer, Ward 1(3)
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches