

**आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता**

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

**Before Shri Rajesh Kumar, Accountant Member and Shri Sonjoy Sarma, Judicial Member**

**I.T.A. No.1884/Kol/2024**

**Assessment Year: 2015-16**

**Nawal Kishore Rajgarhia.....Appellant**

**C/o Subash Agarwal &  
Associates, Advocates,  
Siddha Gibson,  
1, Gibson Lane, Suite 213,  
2<sup>nd</sup> Floor, Kolkata – 700069.  
[PAN: ACQPR3401G]**

**vs.**

**DCIT, Circle-3(1), Kolkata.....Respondent**

**Appearances by:**

Shri Siddharth Agarwal, Advocate, appeared on behalf of the appellant.

Shri Pradip Biswas, Addl. CIT- Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : October 30, 2024

Date of pronouncing the order : November 18, 2024

**ORDER**

**Per Sonjoy Sarma, Judicial Member:**

The present appeal is filed by the assessee against the order dated 31.07.2023 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. The assessee filed his return of income on 14.08.2015 declaring a total income of Rs.38,62,700/-. The return was selected for limited scrutiny on two specific issues:

i. Gross interest shown in Schedule OS of ITR is less than interest receipt reported in 26AS.

ii. Large Value Sale of Option in securities (derivative) in a recognized stock exchange and no business income declared by the assessee (STT Code-4)

2.1 Accordingly, a notice u/s 143(2) and 142(1) of the Act was issued to the assessee. However, during the assessment proceedings, the Assessing Officer made addition of Rs.6,47,446/- on account of proceeds from sale of shares of M/s Shree Digvijay Cement Company by invoking section 68 of the Act and denied a claim of long-term capital loss of Rs.1,11,746/-. Furthermore, the Assessing Officer added a sum of Rs.15,10,175/- as interest income without considering that this amount had already been accounted for as 'income from other sources' after deducting interest expenses on a loan.

3. Aggrieved by the order of the Assessing Officer, the assessee preferred appeal to the Id. CIT(A) but the Id. CIT(A) was also dismissed the appeal of the assessee.

4. Dissatisfied with the above order, the assessee filed the appeal before this Tribunal. At the time of hearing, the Id. AR stated that in this appeal, the contentions of the assessee are two-folds i.e. (i) the Assessing Officer exceeds the scope of limited scrutiny by making addition for those issued which were not included in the original scrutiny specifically adding of Rs.6,47,446/- on the proceeds from sale of shares by invoking section 68 of the Act and denial of long-term capital loss claim of Rs.1,11,746/-; (ii) the Assessing Officer added Rs.15,10,175/- as interest income without considering that this amount had already been accounted for under the head 'income from other sources' after deducting associated interest expenses. The Id. AR argued that the assessment in the case of the assessee was selected for limited scrutiny on specific grounds and without converting the limited scrutiny to complete scrutiny, the Assessing Officer had no authority to examine these issues viz. sale proceeds on shares and claim of long-term capital loss outside the scope. The Id. AR further stated that the alleged addition of Rs.15,10,175/- as undisclosed interest income disregarding assessee's detailed submission showing that this amount was duly accounted for as

‘income from other sources’ after deducting interest expenses on loan. The ld. AR submitted that the Tribunal may direct the Assessing Officer to delete the addition of Rs.6,47,446/- and Rs.1,11,746/- and restore the issue in respect of the addition of Rs.15,10,175/- for reconsideration to the file of the Assessing Officer.

5. On the other hand, the ld. DR argued that the Assessing Officer acted within his authority and has also submitted that the ld. CIT(A)’s order objecting the claim of the assessee with these issues were **within** limited scrutiny scope.

6. We, after hearing the rival submissions of both the parties and on careful consideration of the facts, submissions and judicial precedents, find that the Assessing Officer initiated limited scrutiny assessment on two specific issues. The addition of Rs.6,47,446/- (sale proceeds of shares) invoking section 68 of the Act and disallowance of long-term capital loss claim of Rs.1,11,746/- exceeds the scope of limited scrutiny. As per the Income Tax guidelines, a limited scrutiny case cannot be exceeded without proper conversion to complete scrutiny. The Assessing Officer was not justified in making addition or disallowance on the issues as the Assessing Officer was not supposed to examine any other issue except the issue for which the scrutiny assessment was ordered. The Assessing Officer was supposed to get approval of the competent authority for converting the aforesaid limited scrutiny into full scrutiny. On this aspect, various judicial precedents have held that when the Assessing Officer fails to convert a limited scrutiny case to complete scrutiny case, any addition made outside the prescribed scope is arbitrary and invalid. Similarly, the contention of the ld. AR in respect of the addition on interest income of Rs.15,10,175/ is that the assessee has made a consistent view that this income was accounted for interest income under the head ‘income from other sources’ after deducting interest expenses on a loan and the Assessing Officer failed to examine

the submission appropriately, therefore, this issue requires re-examination in the hand of the Assessing Officer in order to verify the amount was correctly disclosed by the assessee or not. In view of the above discussion, we hold that the issues relating to the addition of Rs.6,47,446/- on account of sale proceeds of shares and denial of Rs.1,11,746/- as long-term capital loss claim are beyond the scope of limited scrutiny and unsustainable as per law. Accordingly, we direct the Assessing Officer to delete the alleged addition of Rs.6,47,446/- and allow the claim of Rs.1,11,746/- long-term capital loss to the assessee. On the other hand, on the issue of Rs.15,10,175/- claimed as interest income after deducting related expenses as stated by the ld. AR before the Bench, we deem it necessary to set aside the issue to the file of the Assessing Officer to re-examine and verify the assessee's disclosure whether it was properly made or not and accordingly grant relief to the assessee, if permissible, in accordance with law.

7. In terms of the above, the appeal of the assessee is partly allowed as indicated above.

***Kolkata, the 18<sup>th</sup> November, 2024.***

Sd/-  
**[Rajesh Kumar]**  
**Accountant Member**

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

Dated: 18.11.2024.

RS

*Copy of the order forwarded to:*

1. Nawal Kishore Rajgarhia
2. DCIT, Circle-3(1), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches