

**आयकर अपीलीय अधिकरण, कोलकाता पीठ "ए", कोलकाता**

**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH: KOLKATA**

श्री राजेश कुमार, लेखा सटस्य एवं श्री प्रदीप कुमार चौबे, न्यायिक सदस्य के समक्ष  
[Before Shri Rajesh Kumar, Accountant Member & Shri Pradip Kumar Choubey, Judicial Member]

**I.T.A. No. 694/Kol/2024**  
**Assessment Year: 2004-05**

Howrah Trading Company Pvt. Ltd.  (PAN: AAACH 8265 R)	Vs.	DCIT, Circle-5, Kolkata
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	25.11.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	26.11.2024
For the Appellant/ निर्धारिती की ओर से	Shri S. K. Pransukhka, FCA
For the Respondent/ राजस्व की ओर से	Shri Raja Sengupta, Addl. CIT Sr. DR

**ORDER / आदेश**

**Per Rajesh Kumar, AM:**

This is an appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-Addl. JCIT(A)-2, Pune (hereinafter referred to as the "Ld. CIT(A)") dated 07.02.2024 for the AY 2004-05.

2. The assessee has challenged the order of JCIT(A) in confirming the assessment order dated 21.12.2010 passed u/s 147 of the Act.

I.T.A. No.694/Kol/2024  
Assessment Year: 2004-05  
Howrah Trading Company Pvt. Ltd.

3. Facts in brief are that the case of the assessee was only reopened u/s 147 of the Act and no notice was ever issued u/s 148 of the Act by the AO to the assessee. In fact the reopening of assessment was made for AY 2003-04 and the copy of notice issued u/s 148 dated 25.10.2009 is filed at page no. 3 of the paper book. The assessee filed return of income for instant assessment year on 01.11.2004 which was processed u/s 143(1) vide order dated 29.12.2005, a copy of which is filed at page no. 2 of the paper book. Similarly the acknowledgment for AY 2004-05 is filed at page 1 of paper book wherein the total loss declared by the assessee was Rs. 21,80,320/- which was assessed in the summary assessment. The AO erroneously passed an order u/s 147 read with section 143(1) of the Act dated 31.12.2010 taking all the facts from AY 2003-04 verbatim. In other words and figures in the AY 2003-04 were also verbatim copied and pasted in AY 2004-05 and assessment was framed thereon wrongly. Similarly the same was upheld by the Ld. CIT(A). Now the issue has been placed before us and the ld. D.R has requested the bench to allow the sometime to find out the truth. Accordingly time was given and the case was posted for 4.7.2024. The Ld. D.R at the time of hearing placed a letter dated 02.07.2024 before the Bench with enclosure which are reproduced below:



No. DCIT/Cir-5(1)/Kol/The Howrah Trading/2024-25 - 182

Date: 02.07.2024

To,

The ITO, ITAT-3, Kolkata,  
O/o the Jt. Commissioner of Income Tax (Sr. Dr.),  
ITAT-3, Kolkata Bench,  
225, A.J.C Bose Road, 6<sup>th</sup> floor,  
Kolkata - 700 020.

Sir,

Sub: Submission of documents in the case of M/s Howrah Trading Company Private Limited, AAACH8265R for the assessment year 2003-04 - matter regarding.

Ref: Your office letter F. No. SR(DR)/ITAT/A-Bench/Submission/2023-24/593 dated 27.06.2024

With reference to the above, it is to bring to your kind notice the assessee has filed its return of income for the AY 2003-04 on 21.11.2003 at a loss of Rs. 43,14,066/-. The said return of income for the assessment year 2003-04 was opened by issuing notice u/s 148 of the Act on 25.10.2009 (copy of notice u/s 148 is enclosed). Subsequently, assessment was completed u/s 147/143(3) of the Act on 31.12.2010 at total assessed income of Rs. 57,76,974/-.

2. However, while making the reassessment, AY was wrongly mentioned in the assessment order as 'AY 2004-05' in place of 'AY 2003-04'. In this regard, a letter was issued by the then Assessing Officer to the assessee on 11.02.2011 regarding the mistake occurred in assessment order (copy of the same is enclosed).

03. Moreover, it is noticed from the ITBA system and available record to this office, the return of income for the AY 2004-05 was not re-assessed u/s 147 of the Act.

Encl: As stated above

Yours faithfully,

*Raj Vikram*

(राज विक्रम/RAJ VIKRAM)  
आयकर सहायक आयुक्त सर्किल-५ (१), कोलकाता  
ACIT, Circle-5(1), Kolkata

It is apparent from the above that this order has been framed erroneously by the AO by taking the facts from AY 2003-04. It was also stated in the said letter that the case was only reopened u/s 147 for A.Y. 2003-04. Therefore is a case of gross non application of mind by the AO and also gross negligence which has caused huge harassment to the assessee. Even the Id CIT also ignored the said fact despite being specifically pointed out by the assessee. Accordingly, we are allowing the appeal of the assessee by quashing the reassessment framed by the AO.

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

Order is pronounced in the open court on 26<sup>th</sup> November, 2024

Sd/-

Sd/-

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)  
Judicial Member/न्यायिक सदस्य

(Rajesh Kumar/राजेश कुमार)  
Accountant Member/लेखा सदस्य

Dated: 26<sup>th</sup> November, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Howrah Trading Company Pvt. Ltd., 8, B.B.D. Bag, East Dalhousie Square, Kolkata-700001
2. Respondent – DCIT, Circle-5, Kolkata
3. Ld. CIT(A)-Addl. JCIT-Pune
4. Ld. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata