

आयकर अपीलीय अधिकरण, कोलकाता पीठ "सी", कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH: KOLKATA
श्री दुव्वुरु आर. एल रेड्डी, उपाध्यक्ष एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष
[Before Shri Duvvuru RL Reddy, Vice-President & Shri Rajesh Kumar, Accountant Member]

I.T.A. No. 1790/Kol/2024
Assessment Year: 2012-13

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|---|-----|---------------------------|
| Subodh Rajbanshi (PAN: AKDPR 7345 G) | Vs. | ITO, Ward-61(1), Kolkata |
| Appellant / (अपीलार्थी) | | Respondent / (प्रत्यर्थी) |

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|---|----------------------------------|
| Date of Hearing / सुनवाई की तिथि | 07.11.2024 |
| Date of Pronouncement/ आदेश उद्घोषणा की तिथि | 20.11.2024 |
| For the Appellant/ निर्धारिती की ओर से | Shri C. M. Roy, FCA |
| For the Respondent/ राजस्व की ओर से | Shri Chandan Das, Addl. CIT, D.R |

ORDER / आदेश

Per Rajesh Kumar, AM:

This is the appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)"] dated 21.06.2024 for AY 2012-13.

2. The only issue raised by the assessee is against the order of Ld. CIT(A) confirming the addition of Rs. 70,95,529/- as made by the AO on account of trading in share as well as in commodities without appreciating the facts on records.

3. At the outset, the Ld. Counsel for the assessee filed a transaction statement before the Bench which contains the details of shares and commodities trading dealt in by the assessee during the year showing commodities and equities profit or loss and also showing net surplus from the shares. The Ld. A.R submitted that the case of the assessee was decided ex-parte before the AO. However, before the Ld. CIT(A), the assessee has uploaded all the documents including the transaction statement before the Ld. CIT(A) however, the Ld. CIT(A) passed the order without examining these documents by stating in the appellate order itself that no documents were furnished by the assessee. The Ld. A.R further submitted that since the assessee has filed these documents before the Ld. CIT(A), therefore, the case may be decided by taking into account these documents at this forum and appeal of the assessee may be allowed.

4. The Ld. D.R strongly opposed the arguments presented by the Ld. A.R by submitting that these documents were not before the AO as well as Ld. CIT(A) nonetheless the assessee claimed that these were furnished before the Ld. CIT(A) as no proof/ paper book bearing required certification as to the filing of these documents before the Ld. CIT(A) was placed before the Bench. Therefore, the issue may be restored to the file of AO for examination de novo.

5. After hearing the rival contentions and perusing the material on record, we find that though the assessee has not furnished before the AO any documents, however, these documents comprising transaction statement, commodity profit and loss account and equity profit and loss account were stated to be uploaded on the online portal of the Department in the appellate proceedings. However, no proof of such online uploading was furnished before the Bench nor any paper book containing requisite certification as to the filing of the said documents before the Ld. CIT(A) was furnished before us. Under the facts and circumstances, we are of the view that it would well serve the ends of justice if the case of the assessee is restored to the file of AO. Consequently we set aside the order of Ld. CIT(A) and restore the issue to the file of AO with the direction to decide the same de novo after affording a reasonable opportunity of hearing to the

assessee. Needless to say that the assessee should furnish all the documents before the AO and AO shall consider these documents before framing the assessment.

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

Order is pronounced in the open court on 20th November, 2024

Sd/-

Sd/-

(Duvvuru RL Reddy / दुव्वुरु आर. एल रेड्डी)

(Rajesh Kumar/राजेश कुमार)

Vice-President/उपाध्यक्ष

Accountant Member/लेखा सदस्य

Dated: 20th November, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Shri Subodh Rajbanshi, Gouranganagar, Swamije Nagar, Rajarhat, Kolkata-700059.
2. Respondent – ITO, Ward-61(1), Kolkata
3. Ld. CIT(A)- NFAC, Delhi
4. Ld. PCIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata