

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

श्री संजय शर्मा, न्यायिक सदस्य
एवं
श्री रकेश मिश्रा, लेखा सदस्य
के समक्ष
Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. Nos.: 1423 & 1424/KOL/2024
Assessment Years: 2016-17 & 2011-12**

DCIT, Central Circle-4(2), Kolkata	Vs.	Alom Extrusion Limited
(Appellant)		(Respondent)
PAN: AAACO3518N		

**C.O. No. 49/KOL/2024
Arising out of I.T.A. No.: 1424/KOL/2024
Assessment Year: 2011-12**

Alom Extrusion Limited	Vs.	DCIT, Central Circle-4(2), Kolkata
(Appellant)		(Respondent)
PAN: AAACO3518N		

Appearances:

Department represented by : None.

Assessee represented by : A.K. Tirbriwal, FCA &
Amit Agrawal, Adv.

Date of concluding the hearing : February 18th, 2025

Date of pronouncing the order : February 19th, 2025



ORDER

PER BENCH:

These appeals by the Revenue and the cross objection filed by the assessee are against the separate orders of the Commissioner of Income Tax (Appeals)-27, Kolkata [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2016-17 and AY 2011-12, respectively.

2. The Revenue is in appeal raising the following grounds of appeal:

I. I.T.A. No. 1423/KOL/2024; AY 2016-17:

“1. That in the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition made u/s 68 on account of unsecured loan amounting to Rs. 1,00,00,000/- as unexplained cash credit without appreciating the material brought on record and facts evaluated by the Assessing Officer.

2. That in the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of the interest amounting to Rs. 24,02,459/- on such unsecured loan.

3. That on the judgments of the case law as cited by the Ld. CIT(A) cannot be accepted as it is not squarely applicable to the grounds of appeal filed by the assessee.

4. That the Department craves leave to add, modify or alter any of the ground(s) of appeal and I or adduce additional evidence at any time during the appeal proceedings.”

II. I.T.A. Nos. 1424/KOL/2024; AY 2011-12:

“1. That in the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition made u/s 68 on account of bogus speculative loss on commodities amounting to Rs. 30,53,735/- as unexplained cash credit without appreciating the material brought on record and facts evaluated by the Assessing Officer.

2. That on the judgments of the case law as cited by the Ld. CIT(A) cannot be accepted as it is not squarely applicable to the grounds of appeal filed by the assessee.



3. That the Department craves leave to add, modify or alter any of the ground(s) of appeal and/or adduce additional evidence at any time during the appeal proceedings.”

2.1. The assessee has raised the following grounds in cross objection before the Tribunal:

III. C.O. No. 49/KOL/2024; AY 2011-12:

“1. That the Assessing Officer made no additions in respect of alleged escapement of income of Rs.1,10,76,010 by not disclosing the Commodity Profit of the said amount for which the reasons were recorded and therefore the reopening itself was bad in law and thus the reopening should have been quashed.

2. That the Assessing Officer did not make any additions on the ground for which reopening was initiated, he could not have made other addition of Rs.30,53,735 under section 68 of the Act.”

3. It is pertinent to note that the tax effect by virtue of the relief given by the first appellate authority is less than Rs.60,00,000/- as mentioned in Col. No. 10 of Form Nos. 36 in both the years. On 13.02.2025, this fact was brought to the notice of the Ld. DR who was requested to examine the matter and bring it to our notice if the cases were covered under any of the exceptions to the CBDT's circular in this regard. The tax effect is stated to be ₹38,67,325/- in col. 10 of Form No. 36 for A.Y. 2016-17 while it is mentioned as ₹9,43,604/- for A.Y. 2011-12, both of which are below ₹60,00,000/-. As per the CBDT's Circular No. 9 of 2024 issued on 17th September, 2024, the CBDT has directed its subordinate authorities not to file appeal against the order of the ld. CIT(Appels) before the Tribunal if the tax effect by virtue of relief given by the ld. CIT(Appels) is less than Rs.60,00,000/-. Such order could only be challenged if it comes within the exceptions provided in the Instruction. Ld. Sr. DR could not rebut this fact in the previous hearing nor could he demonstrate how the



appeal was covered under any of the exceptions nor anyone appeared when the case was heard on 18.02.2025; therefore, this appeal is not maintainable.

4. On due consideration of the above facts and circumstances, we dismiss this appeal of the Revenue on account of low tax effect. However, in case on re-verification of the facts at the end of the Ld. Assessing Officer, it emerges that the tax effect is more than the limit for filing the appeal or the cases fall under any of the exceptions provided in the instruction, then the Revenue will be at liberty to file a Miscellaneous Application for recall of this order and revival of the appeals. Such an application should be filed within the time limit provided in the Act.

5. In the result, both the appeals of the Revenue as well as the cross objection of the assessee are dismissed as the appeals are not maintainable on account of tax effect and the cross objection becomes infructuous.

Order pronounced in the open Court on 19th February, 2025.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 19.02.2025

Bidhan (P.S.)



Copy of the order forwarded to:

1. **DCIT, Central Circle-4(2), Kolkata.**
2. **Alom Extrusion Limited, 7B, Alom House, Pretoria Street, Kolkata, West Bengal, 700071.**
3. CIT(A)-27, Kolkata.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata