

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

**IN THE INCOME TAX APPELLATE TRIBUNAL "D" 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. 11/Kol/2025**  
**Assessment Year: 2013-14**

ITO, Ward-4(1), Kolkata	Vs.	Tribute Trading and Finance Limited  (PAN: AAAC 5329 A)
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	28.03.2025
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	21.04.2025
For the assessee / निर्धारिती की ओर से	Shri Manish Tiwari, A.R
For the revenue / राजस्व की ओर से	Shri Sailen Samadder, Addl. CIT Sr. D.R

**ORDER / आदेश**

**Per Pradip Kumar Choubey, JM:**

This is the appeal preferred by the revenue against the order of Commissioner of Income Tax (Appeals)- NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)] dated 21.10.2024 for AY 2013-14.

2. It appears from the report of the registry that the appeal has been filed after a delay of 2 days for this the assessee has filed condonation petition., which are as follows-

*Sir.*

*Sub: Condonation petition for delay in filing 2<sup>nd</sup> appeal in the case of Tribute Trading & Finance Ltd. [PAN: AACT5329A) for the A.Y. 2013-14 Matter regarding.*

*Kindly refer to the above.*

*In respect of filing appeal in the case of M/s Tribute Trading & Finance Ltd. date-wise details are given as below -*

*21.10.2024 Date of order passed by the National Faceless Appeal Centre (NFAC).*

*11.12.2024-Date of Appeal Scrutiny Report sent to PCIT with comments of AO.*

*27.12.2024-Date of receipt of direction along with grounds of appeal for filing 200 appeal from PCIT-2. Kolkata office.*

*02.01.2025-Date of filling appeal in ITAT through online mode.*

*In this regard, it is submitted that there was total delay of fifteen (15) in filing 2nd appeal before the Hon'ble ITAT; the reason for such delay is primarily for the following reasons:*

*(1) During last 2 months there is huge work load of Reports, DTVSV and ASR and the undersigned was also on leave for a week during the period for LTC purpose.*

*For the reason stated above, a delay of fifteen (15) days in filling appeal against the order of the National Faceless Appeal Centre (NFAC) may kindly be condoned.*

On perusal of the condonation petition, the reason for delay in filing the appeal seems to be genuine and bonafide. The Ld. D.R did not raise any objection in condoning the delay. Keeping in view, the condonation petition as well as judicial pronouncement that the case should be decided on merit not on technical issue, the delay is hereby condoned.

3. Brief facts of the case of the assessee are that the assessee is a public limited company carrying business of Non-Banking Finance company, filed its return of income for AY 2013-14 declaring total income of Rs. 30,26,790/-. The assessment was completed by DCIT, Circle-5(2), Kolkata by making an addition of Rs. 82,67,048/- which was deleted by the Ld. CIT(A) in the appellate order. The appeal effect order was issued by ITO Ward 4(1) Kolkata on 02.05.2017. The revenue filed appeal before the ITAT, Kolkata wherein ITAT vide its order dated 31.12.2018 confirmed the order of

Ld. CIT(A). Subsequently the ITO, Ward-4(1), Kolkata reopened the case by issuing notice dated 16.03.2021 u/s 148 of the Act, notice u/s 143(2) along with reasons for reopening was issued on 21.05.2021 and in compliance to the same objections were filed on 10.08.2021. The reasons for reopening as mentioned that the assessee booged bogus loss of Rs. 4,52,000/- and later increased the amount to Rs. 49,69,269/- on baseless evidence. The AO after disposing the objection of the assessee, issued show cause notice on 03.03.2022 and again issued another show cause notice on 16.03.2022 along with draft assessment order. The AO added an amount of Rs. 49,69,269/- to the total income of the assessee after discarding the evidence and submission filed by the assessee.

4. Aggrieved by the said order, the assessee preferred an appeal before the Ld. CIT(A) wherein the appeal of the assessee has been allowed by directing the AO to delete the addition of Rs. 49,69,269/-.

Being aggrieved and dissatisfied the revenue preferred an appeal before us.

5. The Ld. D.R challenges the very impugned order thereby submitting that the Ld. CIT(A) erred in deciding the case in favour of the assessee merely on paper submission without examination and verification of the relevant documents. The Ld. DR further submits that the Ld. CIT(A) did not appreciate the judicial principles laid down in the matter of PCIT vs. Swati Bajaj wherein the Hon'ble Calcutta High Court laid down the guidelines nor the Ld. CIT(A) considered the judicial pronouncements passed in BST Infratech Limited.

6. Contrary to that the ld. A.R challenges the very filing of appeal by submitting that in the present case tax effect is below the prescribed monetary limit to file an appeal by the revenue before the ITAT. The ld. Counsel submits that the Ld. CIT(A) has rightly passed an order as the amount in dispute was not based on any cogent evidence or report but solely on doubt and suspicion. The Ld. Counsel submits that in the present case, the assessment order passed on 30.03.2022 includes sum of Rs. 1,12,93,840/- which was added in the previous assessment order dated 28.03.2016 but was subsequently deleted by the Ld. CIT(A) vide order dated 21.03.2017. The Ld. Counsel further submits that

complete details of purchase and sale of scrips during FY 2012-13 were submitted and assessed by DCIT, Circle-5(2), Kolkata during original assessment, so reassessment cannot be sustained on the basis of only change of opinion. He has challenged the reasons for reopening by citing a decision passed by the Hon'ble Supreme Court in the case of Yogendrakumar Gupta vs. ITO [2014] 51 taxmann.com 383 (SC).

7. Upon hearing the submission of the counsel of the respective parties there is no dispute that in the present case tax effect is low but the submission of Ld. D.R is that the case of the assessee is covered in the exceptional clause. We have gone through the order of Ld. CIT(A). Admittedly, in this case, the original assessment was made u/s 143(3) on 28.03.2016 and the notice u/s 148 has been issued on 16.03.2021 i.e. it has been issued beyond the period of four years from the end of relevant assessment year. It is important to mention here that the assessee company furnished all the details in course of assessment proceedings and the assessment order was passed after due examination and verification on material facts furnished before the AO. In the instant case, there are nothing has been disclosed in the reason recorded that the assessee company failed to disclose truly and fully material facts rather it was only on the basis of information received . There is nothing in the reasons recorded that primary documents were not truly and fully disclosed by the assessee company. The Ld. CIT(A) in its order has discussed the case of the assessee elaborately and the operative portion of the Ld. CIT(A) is reproduced herein below:

*“7.1 Ground No.12:- In this case, addition of Rs.49,69,269/- has been made on the ground that assessee has claim bogus losses. In this regard it is important to mention few facts which are as follows:-*

- (i) *Assessee company is an investment company, whose main source of income is from interest and from trading in different securities. During A.Y.2013-14, it has shown income of Rs.30,26,790/-.*
- (ii) *In this case, on the basis of information received from Investigation Wing for same A.Y. i.e 2013-14, assessment has been done on 28.03.2016, by making addition of Rs.78,25,188/- as bogus losses, on shares of M/s. Tuni Textiles Ltd and M/s. Blue Circle Ltd. During A.Y.2013-14, assessee has incurred total losses on equity of Rs.1,27,94,656/- out of which Rs. 78,25,188/- has been added by Assessing Officer and remaining losses of Rs.49,69,468/- has been allowed after due verification. In this regard during assessment proceedings itself, assessee has submitted the list of all the shares and their purchases and sales details, which resulted into losses of Rs.1,27,94,656/-. In this list, there is also mention of share transactions of KCCL*

- Plastics resulting into loss of Rs.4,54,083/-, at Sr.No.6, but that was allowed in assessment order dated 28.03.2016.*
- (iii) *It is here important to mention that Hon'ble ITAT, Kolkata vide his order No. ITA No.2275/Kol/2018 and ITA No.149501496/Kol/2017 dated 31.12.2018, has deleted this addition of Rs.78,25,188/- on account of bogus losses in shares of M/s. Tuni Textiles Ltd and M/s. Blue Circle Ltd.*
  - (iv) *Assessing Officer has reopened this case again, only on ground of information received from Investigation Wing regarding fictitious losses in respect of KCCL Plastics Ltd which amounted to Rs.4,52,000/- only, but has made addition of all the balance amount of Rs.49,69,269/-, without any basis, and completely on surmises and presumptions, which is completely wrong. This amount of Rs. 49,69,269 is the remaining amount out of total losses of Rs.1,27,94,656/-, which has been disallowed earlier.*
  - (v) *Assessing Officer has reopened this matter after a period of 4 years, although assessee has disclosed all the facts, including losses in case of M/s. KCCL Plastics Ltd, at the time of original assessment proceedings and there is no failure on the part of assessee to disclose all material facts truly and correctly.*
  - (vi) *The case has been reopened on the basis of some information in case of KCCL Plastics Ltd,. In none of the information received, there is direct linkage of assessee with any of the person, whose statement has been recorded. Assessing Officer has made additions of losses in all scrips, without any basis, which is completely wrong.*
  - (vii) *Assessee Company has done all the transactions electronically and through banking channel, by way of debiting and crediting shares in demat account. All transactions are being done through recognised Stock Exchanges and through SEBI Registered Brokers. (viii) Assessee Company has not been provided the opportunity to cross-examine the persons, on whose statement and information assessee's case has been reopened, hence principles of natural justice being violated.*

8. We have also gone through the cited decision passed by the Hon'ble Gujarat High Court in the case of Yogendrakumar Gupta vs. ITO [2014] 46 taxmann.com 56 (Guj) wherein the Hon'ble Court has held thus:

*“Section 69A, read with Section 147, of the Income Tax Act, 1961- unexplained moneys (accommodation entries)- Assessment Year 2006-07- Assessee was engaged in trading of shares and securities – He filed return declaring certain taxable income- During assessment proceedings, Assessing officer noted that assessee had taken loans and advances from “B” Ltd.- Since loan transactions were entered into through cheques and drafts, assessing officer having accepted validity of those transactions, completed assessment under section 143(3) – Subsequently, a search was carried out in case of one ‘A’ in course of which it was found that he was running 20 dummy companies including ‘B’ Ltd. which provided accommodation entries to various beneficiaries – On basis of said investigation report, Assessing officer taking a view that loan transactions of assessee with ‘B’ were bogus, initiated reassessment proceedings – Whether since assumption of jurisdiction on part of Assessing Officer was based on fresh information, validity of impugned reassessment proceedings deserved to be upheld- Held, yes [para 21] [in favour of revenue]”*

9. Keeping in view, the order passed by the Ld. CIT(A), we do not find any illegality in the impugned order. The Ld. CIT(A) has not only discussed the case of the assessee rather gave its finding on the basis of judicial pronouncements and the material facts of the assessee. Accordingly, the appeal of the revenue is hereby dismissed.

In the result, the appeal of the revenue is dismissed.

Order is pronounced in the open court on 21<sup>st</sup> April, 2025

Sd/-

Sd/-

(Rajesh Kumar/राजेश कुमार)

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)

Accountant Member/लेखा सदस्य

Judicial Member/न्यायिक सदस्य

Dated: 21<sup>st</sup> April, 2025

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- ITO, Ward-4(1), Kolkata
2. Respondent – Tribute Trading and Finance Limited, 2<sup>nd</sup> Floor, Jajodia Tower, 3, Bentinck Street, Lal Bazar, Kolkata-700001.
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