

**आयकर अपीलीय अधिकरण, “एस.एम.सी” न्यायपीठ, कोलकाता**

**IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH KOLKATA**

**श्री जार्ज माथन, न्यायिक सदस्य के समक्ष ।**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER**

**आयकर अपील सं/ITA No.944/KOL/2025**

**(निर्धारण वर्ष / Assessment Year. :2013-2014)**

Income Tax Officer, Ward-10(2), Kolkata	Vs	Khatu Niketan Private Limited, GPO 27, Brabourne Road, Mezzanine Floor, Narayani Building Kolkata-700001
PAN No. : <b>AAECK 2891 E</b>		
<b>(अपीलार्थी /Appellant)</b>	..	<b>(प्रत्यर्थी / Respondent)</b>
राजस्व की ओर से /Revenue by	:	Shri Mrinmoy Basak, Sr. DR
निर्धारिती की ओर से /Assessee by	:	Shri Siddharth Kejriwal, AR
सुनवाई की तारीख / <b>Date of Hearing</b>	:	05/08/2025
घोषणा की तारीख/ <b>Date of Pronouncement</b>	:	05/08/2025

**आदेश / O R D E R**

This is an appeal filed by the revenue against the order of the Id. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, dated 05.03.2025, for the assessment year 2013-2014.

2. Shri Mrinmoy Basak, Id. Sr.DR appeared on behalf of the revenue and Shri Siddharth Kejriwal, Id. AR appeared on behalf of the assessee

3. It was submitted by the Id. Sr. DR that the Id.CIT(A) has deleted the addition made by the Assessing Officer representing certain non-genuine loss claimed by the assessee in respect of derivative trading. It was the submission that the order of the Id. CIT(A) is liable to be reversed.

4. In reply, Id. AR vehemently supported the order of the Id. CIT(A).

5. I have considered the rival submissions. The grounds raised by the revenue in its appeal are as under :-

1. *Whether on facts and circumstances of the case and in law, the Ld. CIT(A) erred in allowing the appeal of the assessee by*

deleting the addition of Rs. 55,10,850/-made u/s 69C of the Act ignoring the merit of the case.

2. *Whether on the facts and circumstances of the case and in law, the CIT(A) erred in ignoring the CBDT's Instruction No. 01/2022 dated 11.05.2022.*
3. *Whether on the facts and in the circumstances of the case, the Hon'ble ITAT has erred in deleting the addition made by the AO u/s 69C, which were based on the probability of surrounding circumstances wherein the transactions were blatantly suspicious and the rules of suspicious transactions apply, as has been held in the case of Hersh W. Chadha v. Deputy Director of Income-tax, Circle-1(1), International Taxation[2011]9 taxmann.com 1 (Delhi)/[2011] 43 SOT 544 (Delhi)/[2011] 135 TTJ513 (Delhi).*
4. *Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in facts and in law in not appreciating the judicial principles laid down in the matter of Pr. CIT Vs. Swati Bajaj reported in (2022) 139 taxmann.com 352 (Cal)/446 ITR 56 (Cal) wherein the Hon'ble High Court at Calcutta laid down guidelines on the manner in which the allegation against the assessee has to be considered.*
5. *Whether on the facts and circumstances of the case, and in law, the Ld. CIT(A) has failed to appreciate the judicial principles laid down in the matter of Sumati Dayal v. CIT [1995] 214 ITR 801 (SC) and also in the matter of CIT Vs. Durga Prasad More 1973 CTR (SC)500: [1971] 82 ITR 540 (SC).*
6. *The appellant prays that the tax effect in the instant case is 18,54,000/- which is below the monetary limit prescribed by the CBDT Circular No. 9/2024 dated 17.09.2024. However, it is humbly prayed that the case falls within the exception clause 3.1(h) of Circular No. 05/2024 dated 15.03.2024 as a modus operandi of evasion is involved in the case, meaning thereby that large amounts of money have been brought to the books /system of the assessee company in highly suspicious circumstances.*
7. *That the appellant craves leave to add to and/or alter, amend, modify or rescind the grounds hereinabove before or at the time of hearing of this appeal.*

6. A perusal of the order of the Id. CIT(A) shows that the Id. CIT(A) has relied upon the decision of the Hon'ble Supreme Court in the case of Rajiv Bansal, reported in [2024] 167 taxmann.com 70 (SC) and has quashed the

reopening of the assessment. A perusal of the page 12 to 14 of the Id. CIT(A) shows that the Id.CIT(A) has considered the dates of events and applied the decision of the Hon'ble Supreme Court in the case of Rajiv Bansal, referred to supra. The revenue has not challenged the findings of the Id.CIT(A) in regard to quashing of the reopening of the assessment. Ld.CIT(A) has not adjudicated the issue on merits of the case and has decided the appeal only on technicality of the reopening. As the revenue has not raised any ground against the action of the Id. CIT(A) in quashing the reopening of the assessment, the appeal filed by the revenue does not survive and consequently the same stands dismissed.

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

Order dictated and pronounced in the open court on 05/08/2025.

Sd/-

(जार्ज माथन)

**(GEORGE MATHAN)**

**न्यायिक सदस्य / JUDICIAL MEMBER**

**कोलकाता** Kolkata; दिनांक Dated 05/08/2025

*Prakash Kumar Mishra, Sr.P.S.*

**आदेश की प्रतिलिपि अग्रहित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, **कोलकाता** / DR,  
ITAT, Kolkata
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)

**Income Tax Appellate Tribunal, Kolkata**