

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH: KOLKATA
[Before Shri J. Sudhakar Reddy, AM]

I.T.A No.1828/Kol/2016
Assessment Year: 2011-12

M/s. S.J. Fiscal Services Pvt. Ltd.
(PAN: AAEC57262H)
(Appellant)

Vs. Income-tax Officer, Wd-3(4), Kolkata
(Respondent)

Date of hearing: 31.01.2017
Date of pronouncement: 31.01.2017

For the Appellant: Shri Shital Khemka, CA
For the Respondent: N o n e

ORDER

This appeal by assessee is arising out of order of CIT(A)-I, Kolkata, vide appeal No. 36/CIT(A)-I/W-3(4)/2014-15 dated 01.06.2016 for AY 2011-12 on the following grounds:

“1. On the facts and circumstances of the case, the Ld. CIT(A) erred in allowing the assessee a proper opportunity to represent the case and passing the order ex parte.

2. On the facts and circumstances of the case, the Ld. CIT(A) erred in confirming the disallowance of share trading loss of Rs.12,97,250/-.

3. On the facts and circumstances of the case, the ld. CIT(A) erred in confirming the disallowance of share trading loss of Rs.8,80,000/-.”

2. None was present on behalf of the Revenue. The Ld. DR has sought for adjournment for each and every case that has been listed before me today by filing one letter mentioning the entire cause list in it in the “SMC” “A” Bench. The reason given is that the Ld. Sr. DR declined to receive files listed for hearing today from the Addl. CIT, Sr. DR, ITAT, Admn. as he was busy in some office work. As I am not convinced with such a reason and as I cannot allow the bench to collapse, I reject the application for adjournment and disposed of the matter ex parte qua the revenue.

3. I have perused the matter. There is a delay of 4 days in filing of the appeal. The assessee has filed a petition for condonation of delay. On perusal of the same, I am convinced that the assessee was prevented by sufficient cause in filing the appeal in time. Therefore, I condone the delay and admit the appeal.

4. I also find that the Ld. CIT(A) has passed an ex parte order as the assessee has not attended at the time of hearing before him. I am convinced that the assessee was

prevented by sufficient cause for appearing before the Ld. CIT(A). Hence, this is a fit case for setting aside to the file of the Ld. CIT(A) for fresh adjudication in accordance with law after giving adequate opportunity of being heard to the assessee. The assessee is directed to appear before the Ld. CIT(A) on 20th April, 2017, take notice and thereafter cooperate in disposal of the same.

5. In the result, appeal of assessee is allowed for statistical purposes.
6. Order is pronounced in the open court.

Sd/-
(J. Sudhakar Reddy)
Accountant Member

Dated : 31st January, 2017

Jd.(Sr.P.S.)

Copy of the order forwarded to:

1. APPELLANT – M/s. S. J. Fiscal Services Pvt. Ltd., HDIL, Kaledonia, 8th floor, A, wing, Off Sahar Road, Opposite Vijay Nagar, Andheri (E), Mumbai-400069.
- 2 Respondent –ITO, Ward-3(4), Kolkata.
3. The CIT(A), Kolkata
4. ACIT , Kolkata.
5. DR, Kolkata Benches, Kolkata

/True Copy,

By order,

Asstt. Registrar.