

No disallowance of share trading loss if all transactions were carried on stock exchange

Summary – The Kolkata ITAT in a recent case of PRB Securities (P.) Ltd., (the Assessee) held that there can be no disallowance of share trading loss if all transactions were carried on stock exchange

Facts

- The assessee was a registered share broker with Securities & Exchange Board of India (SEBI) and active member of various stock exchanges in India. During the relevant year, the assessee-company filed its return of income and claimed business loss of Rs. 3.85 crores on sale of shares of two scrips namely, BCSL and TTL.
- The Assessing Officer alleged that based on information from the investigation wing about the assessee the assessee had claimed bogus/fictitious loss by trading in scrip namely BCSL and TTL which were not having any sound financial position or business activity. Accordingly, he disallowed the business loss incurred by assessee on BCSL and TTML.
- On appeal, the Commissioner (Appeals) reversed the order of the Assessing Officer.
- On revenue's appeal to the Tribunal:

Held

- The Assessing Officer observed that the assessee had acted in collusion with various entry operators for the purpose of obtaining bogus loss in respect of the aforesaid two scrips. This observation of Assessing Officer was admittedly based on the report of the investigation wing of Kolkata Income Tax Department. The assessee during the year under consideration had dealt with 743 scrips and had earned profits or incurred losses as the case may be. The Assessing Officer accepted the profits and losses from all other scrips except loss incurred on BCSL and TTL and accordingly proceeded to disallow the business loss claimed thereon in the sum of Rs 3.85 crores in the assessment as bogus loss.
- The assessee had furnished various details before the Assessing Officer. It furnished evidence to prove that it was a registered stock broker with SEBI having membership of many SEBI recognized stock exchanges.
- Neither SEBI nor any other regulatory authority had passed any adverse order against the assessee company and also not suspended the scrips of BCSL and TTL. All the transactions were routed through recognized stock exchange with registered share broker at the prevailing market prices after duly suffering STT.
- In view of the above findings the HC held that the Assessing Officer had erred in disallowing the business loss incurred in respect of two scrips as bogus which were rightly deleted by the Commissioner (Appeals).