

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
KOLKATA 'D' BENCH, KOLKATA**

**Before Shri P.M. Jagtap, Accountant Member  
and Shri A.T. Varkey, Judicial Member**

**I.T.A. No. 1095/KOL/2017  
Assessment Year: 2012-2013**

**Abhishek Business Pvt. Limited,.....Appellant**  
**D. No.9-19-43, Flat No. 202,**  
**Suryadev Apartments,**  
**CBM Compound,**  
**Viskhapatnam-530 003**  
**[PAN: AADCA 7407 P]**

**-Vs.-**

**Income Tax Officer,.....Respondent**  
**Ward-1(2), Kolkata,**

**Appearances by:**

*N o n e, for the Appellant*

*Shri Imlimeren Jamir, Addl. CIT, D.R., for the Respondent*

Date of concluding the hearing : May 28, 2018

Date of pronouncing the order : May 28, 2018

**O R D E R**

**Per Shri P.M. Jagtap, A.M. :-**

This appeal filed by the assessee is directed against the order of ld. Commissioner of Income Tax (Appeals)-9, Kolkata dated 08.03.2017 passed *ex-parte*, whereby he dismissed the appeal of the assessee.

2. The assessee in the present case is a Company, which filed its return of income for the year under consideration on 30.09.2012 declaring total income of Rs.11,25,760/-. During the course of assessment proceedings, the claim of the assessee of having received share capital and share premium of Rs.18,78,340/- and Rs.4,50,80,160/- was examined by the Assessing Officer. During the course of such examination, he found that the relevant details of the shareholders were not furnished by the assessee so as to enable him to make direct enquiry from the said shareholders. The assessee also failed to explain the share capital and share premium amounts representing cash credits in terms of section 68.

The Assessing Officer, therefore, invoked the said provision and added the share capital and share premium amounts to the total income of the assessee by treating the same as unexplained cash credits. He also made a further addition of Rs.1,16,16,000/- on account of unexplained investment under section 69 as the assessee could not offer any satisfactory explanation as regards the source of funds utilized for the purchase of immovable property. In the assessment completed under section 143(3)/144 vide an order dated 23.03.2015, the total income of the assessee thus was determined by the Assessing Officer at Rs.6,00,10,810/-.

3. Against the order passed by the Assessing Officer under section 143(3)/144, an appeal was preferred by the assessee before the Id. CIT(Appeals) and since there was no compliance on the part of the assessee to the notices issued by the Id. CIT(Appeals) fixing the said appeal for hearing from time to time, the Id. CIT(Appeals) dismissed the appeal of the assessee for non-prosecution vide his appellate order dated 08.03.2017 passed *ex-parte*. Aggrieved by the order of the Id. CIT(Appeals), the assessee has preferred this appeal before the Tribunal.

4. At the time of hearing fixed today, none has appeared on behalf of the assessee. The non-compliance before the Id. CIT(Appeals), however, is explained by the assessee in the ground itself as under:-

- "A. As the appellant is not responded for the notices issued on 26.10.2016 for hearing on 09.11.2016, though the appellant seek the adjournment vide its letter dated 07.11.2016.*
- B. As the appellant is not responded for the notices issued for haring on 14.12.2016, though the appellant had not received the said notice.*
- C. Though the appellant appeared for the hearing on 02.02.2017, the Id. CIT(Appeals) on leave, they themselves adjourned the hearing.*

D. *As the appellant is not responded for the adjournment dated 02.03.2017 for hearing, though the appellant seek the adjournment vide its letter on 27.02.2017, which was served to the office on 01.03.2017 before the hearing date”.*

5. Keeping in view the assertion made by the assessee in writing as above, we are satisfied that there was a sufficient cause for the non-appearance of the assessee before the Id. CIT(Appeals) when its appeal was fixed for hearing before him. Even the Id. D.R. has not raised any material contention in this regard. We, therefore, set aside the impugned order passed by the Id. CIT(Appeals) *ex-parte* and remit the matter back to him for disposing the appeal of the assessee afresh on merit after giving the assessee one more opportunity of being heard.

**6. In the result, the appeal of the assessee is treated as allowed for statistical purposes.**

Order pronounced in the open Court on May 28, 2018.

**Sd/-  
(A.T. Varkey)  
Judicial Member**

**Sd/-  
(P.M. Jagtap)  
Accountant Member**

***Kolkata, the 28<sup>th</sup> day of May, 2018***

*Copies to : (1) Abhishek Business Pvt. Limited,  
D. No.9-19-43, Flat No. 202,  
Suryadev Apartments,  
CBM Compound,  
Viskhapatnam-530 003*

*(2) Income Tax Officer,  
Ward-1(2), Kolkata*

*(3) Commissioner of Income Tax (Appeals)-9,*

*(4) Commissioner of Income Tax- ,*

*(5) The Departmental Representative*

*(6) Guard File*

*By order*

*Senior Private Secretary,  
Head of Office/D.D.O.  
Income Tax Appellate Tribunal,  
Kolkata Benches, Kolkata*