



**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"A" BENCH, MUMBAI**  
**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER AND**  
**SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

ITA no.4471/Mum/2015  
(Assessment Year :2010-11)

Abner Impex Pvt. Ltd.  
B-10, Gaondevi Prased Chawl  
Devicha Pada, Reti Bunder Road  
Dombivali, Thane 421 202  
PAN – AAICA0677N

..... Appellant

v/s

Income Tax Officer  
Ward-9(1)1, Mumbai

..... Respondent

Assessee by : None  
Revenue by : Ms. N. Hemlatha

Date of Hearing – 22.05.2018

Date of Order – 25.05.2018

**ORDER**

**PER SAKTIJIT DEY, J.M.**

Aforesaid appeal by the assessee is against order dated 3<sup>rd</sup> December 2014, passed by the learned Commissioner (Appeals)-16, Mumbai, for the assessment year 2010-11.

2. The dispute in present appeal is confined to addition of share application money amounting to ₹ 3,26,00,000.

3. At the outset, it needs to be mentioned, a notice of hearing issued to the assessee through registered post on 23<sup>rd</sup> August 2017, on the first occasion it was returned back by the postal authorities with the remark "refused". Again on 12<sup>th</sup> April 2018 another notice was issued through registered post which was returned by the postal authorities with the remark "not known". Further, it is evident from material on record the hearing notices were issued on the address mentioned in Col. No.10 of the appeal memo in form no.36. Thus, from the aforesaid facts, it is clear that the assessee is not interested in prosecution and disposal of the appeal. In view of the aforesaid, we proceed to dispose off the appeal ex-parte qua the assessee after hearing the learned Departmental Representative and on the basis of material on record.

4. Brief facts are, the assessee a company filed its return of income for the impugned assessment year on 31<sup>st</sup> March 2011 declaring nil income. During the assessment proceedings, the Assessing Officer noticed that assessee has shown receipt of share application money amounting to ₹ 3,26,00,000 from three parties. Further, he found that the assessee has invested the aforesaid amount in the shares of another company M/s. Resurgere Mines and Mineral India Ltd. Therefore, he called upon the assessee to furnish the details of investment of the aforesaid amount along with the name of the

persons, their PAN, bank account copies of the persons who have advanced the amount to the assessee towards share application money etc. He also called upon the assessee to furnish the details of ROC registration and return filed with ROC. As alleged by the Assessing Officer, in response to the query raised by him the assessee simply filed the copies of share application forms without furnishing any other details. On scrutiny of the share application forms, the Assessing Officer found that in case of Laxmi Minerals the PAN number was invalid and the assessee did not prove the creditworthiness of the party nor the genuineness of the transaction. In respect of Bharat Mata Construction, the assessee did not prove the creditworthiness and genuineness of transaction. Further, the notice issued under section 133(6) of the Act was not complied. In respect of Grewal Mines, the assessee could not prove the creditworthiness or the genuineness of transaction. Even, the PAN was found to be of an individual. Thus, in absence of any supporting evidence to prove the genuineness of share application money, Assessing Officer treated it as unexplained cash credit under section 68 of the Act and added back the amount of ₹ 3,26,00,000.

5. Assessee challenged the addition before the first appellate authority, who also sustained the addition.

6. We have heard the learned Departmental Representative and perused the material on record. As could be seen from the impugned orders of the departmental authorities, at no stage the assessee filed any cogent evidence to prove the genuineness of the share application money credited to its books of account. Neither, the assessee could prove the creditworthiness of the concerned parties. Even, the identity of the share applicants was not established. Thus, as could be seen from the facts on record, the assessee failed to discharge the initial burden of proving the source of share application money. Even before us also, the assessee has neither appeared nor produced any evidence to prove the genuineness of the transaction relating to receipt of share application money. In view of the aforesaid facts we do not find any infirmity in the order of the learned Commissioner (Appeals) in confirming the addition made by the Assessing Officer. Ground raised is dismissed.

7. In the result, assessee's appeal is dismissed.

Order pronounced in the open Court on 25.05.2018

**Sd/-**  
**MANOJ KUMAR AGGARWAL**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**SAKTIJIT DEY**  
**JUDICIAL MEMBER**

**MUMBAI, DATED: 25.05.2018**

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The CIT(A);*
- (4) *The CIT, Mumbai City concerned;*
- (5) *The DR, ITAT, Mumbai;*
- (6) *Guard file.*

*Pradeep J. Chowdhury*  
*Sr. Private Secretary*

True Copy  
By Order

(Sr. Private Secretary)  
ITAT, Mumbai