

आयकर अपीलिय अधीकरण, न्यायपीठ – “B” कोलकाता,  
*IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA BENCH “B” KOLKATA*

Before **Shri J.Sudhakar Reddy, Accountant Member** and  
**Shri S.S.Godara, Judicial Member**

**ITA No.1109/Kol/2017**  
Assessment Year:2012-13

M/s Sidhanta Vyapar Pvt. Ltd. 45, Dobson Roa, Gangotri Appartment, 3 <sup>rd</sup> Floor, Howrah-711101 [PAN No.AARCS 2062 G]	बनाम/ V/s.	CIT(A)-5 Aayakar Bhawan, P-7, Chowringhee Square, Kolkata-69
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	None
प्रत्यर्थी की ओर से/By Respondent	Shri Goutam Kr. Mondal, Addl. CIT-DR
सुनवाई की तारीख/Date of Hearing	06-06-2018
घोषणा की तारीख/Date of Pronouncement	15 -06-2018

**आदेश /O R D E R**

PER S.S.Godara, Judicial Member:-

This assessee's appeal for assessment year 2012-13 is directed against Commissioner of Income Tax (Appeals)-5, Kolkata's order dated 09.12.2016, in case No. 290/CIT(A)-5/Wd-15(4)/15-16, passed ex parte affirming the Assessing Officer's action adding unexplained share capital of ₹108,50,000/- as well as disallowance of a sum of ₹53,750/- by invoking u/s14A r.w Rule 8D, involving proceedings u/s 143(3) of the Income Tax Act, 1961; in short 'the Act'.

2. It emerges at the outset that the instant all suffers from 62 days delay in filing, Case file suggests that assessee has placed on record its condonation affidavit solemnly averring therein that its person in-charge was out of town. Learned Departmental Representative is very fair in not disputing the said solemn averments.

We therefore condone the above stated delay of 62 days in filing of instant appeal as neither intentional nor deliberate.

3. We now advert to merits of the case. It is evident that CIT(A) has passed the impugned lower appellate order ex parte whilst affirming the Assessing Officer's action making the above two additions. We find from page 4 of the lower appellate order that he had granted two opportunities of hearing to the assessee on 17.08.2016 and 08.12.2016. The assessee sought adjournment on the former occasion. It did not appear in the latter hearing which made the CIT(A) to dismiss the appeal on merits. It is sufficiently indicated that lower appellate authority has rejected assessee's both substantive grounds on its single failure in presenting its case. Learned DR fails to dispute this factual position. We therefore deem it appropriate in the larger interest of justice that assessee deserves one more innings in lower appellate proceedings. We according restore instant lis back to the CIT(A) for afresh adjudication as per law. WE make it clear that we have not dealt with merits of the case.

3. This assessee's appeal is allowed for statistical purpose.

Order pronounced in open court on 15/06/2018

Sd/-  
(लेखा सदस्य)  
(J.Sudhakar Reddy)  
Accountant Member  
\*Dkp-Sr.PS

Sd/-  
(न्यायिक सदस्य)  
(S.S.Godara)  
Judicial Member

दिनांक:- 15/06/2018 कोलकाता / Kolkata

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. अपीलार्थी/Appellant-M/s Sidhanta Vyapar Pvt. Ltd. 45, Dobson Road, Gangotri Apartment, 3<sup>rd</sup>, Floor, Howrah-71101
2. प्रत्यर्थी/Respondent-CIT(A)-5, Aayakar Bhawana, P-7, Chowringhee Sq. Kol-69
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A) )
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता/DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

Sr. Private Secretary,  
Head of Office/DDO  
आयकर अपीलीय अधिकरण, कोलकाता