

2. For the order of the Learned CIT(A)-5 is not justified in confirming the order of the Learned AO in treating the collection from different parties as negative cash balance of Rs. 37,00,893/- and Rs. 32,11,235/- and making the addition of the same in the total income of the appellant u/s 68 of Income Tax Act, 1961. Without considering the nature of recording in the books of accounts.

3. For that the CIT(A) is not justified in confirming the addition of Rs. 90,00,000/- which is actually debit of receipt through net banking from another unit.

4. For that the Learned CIT(A) has not properly considered the facts of case.

5. For that the orders of the lower authorities are against the accepted principles of law and natural justice.

The appellant craves for leave to add, alter and modify any grounds of appeal on or before the date of hearing of appeal.

3. The brief facts of this appeal is that the assessee is a company engaged in dealing in land, plots which were developed out of funds provided by the prospective buyers and the said lands were handed over to those parties after development thereon. The return of income for the assessment year 2012-13 was filed by the assessee on 08.01.2013 declaring total income of Rs. NIL after claiming the current year loss of Rs. 3,18,02,669/-. In the course of assessment proceedings, the ld. AO observed that there was negative cash balance on 29.09.2011 to the tune of Rs. 37,00,893/- and on 31.01.2012 to the tune of Rs. 32,01,234.66/-. The assessee was not able to explain the source of cash withdrawal to explain the said negative cash balances. The ld. AO observed that the assessee was not able to explain the nature and source of credit of Rs. 90,00,000/- appearing on 31.01.2012 by proving the identity, creditworthiness and genuineness of the transaction thereon. Accordingly, he brought all the three items totaling to Rs. 1,59,02,127/- to tax treating the same as unexplained cash credit u/s 68 of the Act. Aggrieved the assessee preferred an appeal before the Ld. CIT(A) and before the Ld. CIT(A), none appeared on behalf of the assessee and the Ld. CIT(A) decided the

appeal ex parte by dismissing the appeal of the assessee. Aggrieved the assessee is in appeal before us.

4. We have heard the rival submissions. We find that the Ld. CIT(A) had passed an ex parte order and had not adjudicated the issue on merits taking into account the various submissions and evidences in support of the assessee's submission. In these facts and circumstances, we deem it fit and appropriate, to set aside this appeal to the file of Ld. CIT(A) for de novo adjudication and direct him to take a decision uninfluenced by the earlier decision taken by him in this regard. Accordingly, grounds raised by the assessee are allowed for statistical purposes.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Court on 06.07.2018

Sd/-

[S.S. Viswanethra Ravi]
Judicial Member

Sd/-

[M.Balaganesh]
Accountant Member

Dated : 06.07.2018

SB, Sr. PS

Copy of the order forwarded to:

1. Radiance Edifice Infra Realty Ltd., Mr. Shankar Dutta (Director), Subhas Nagar, Nabagram, Hooghly-711246.
2. ITO, Ward-15(3), Kolkata, Aayakar Bhawan Poorva, 110, Shantipally, Kolkata-700107.
- 3..C.I.T.-
4. C.I.T.- Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By Order

Senior Private Secretary
Head of Office/D.D.O., ITAT, Kolkata Benches

