

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH "B", KOLKATA**

BEFORE SH.P.M.JAGTAP, ACCOUNTANT MEMBER AND

SH. S.S.VISWANETHRA RAVI, JUDICIAL MEMBER

**ITA No.731/KOL/2016
[Assessment Year: 2008-09]**

Naisha Infrastructure Pvt.Ltd., 23/24, Radha Bazar Street, Kolkata-700001. PAN-AACCN6790M	vs	ITO, Ward-6(3), Aaykar Bhawan, P-7, Chowringhee Square, Kolkata-700069.
(Appellant)		(Respondent)
Appellant by	Sh. Manish Tiwari, AR	
Respondent by	Sh. S.Dasgupta, Addl. CIT DR	
Date of Hearing	05.07.2018	
Date of Pronouncement	11.07.2018	

ORDER

PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

This appeal filed by the assessee against the order dated 17.02.2016 passed by CIT(A)-6, Kolkata for AY 2008-09.

2. After hearing both the parties, we find that Ld.CIT u/s 263 of the Income Tax Act, 1961 (in short "Act") directed to conduct inquiries in respect of investing companies as detailed there in at page No.4 of the assessment order. It is noticed from the AO's order while giving effect to directions of CIT issued summons u/s 131 of the Act to the then Directors of the assessee at a respective addresses and the said summons returned unserved and no compliance was made before the AO in response to notice u/s 131 of the Act. The contention of Ld.AR, one more opportunity may be given to the assessee to prosecute its case before the AO in terms of the directions as given by CIT in revisional proceedings. Ld.CIT DR did not controvert the same. Therefore, taking into consideration the facts and circumstances of the case and in the interests of justice, we remand the matter to

the file of the AO for its consideration in terms of specific directions given by CIT u/s 263 as reflect at page No.4 of the order of AO dated 29.03.2014. The relevant portion of which is reproduced herein below:-

- i) *“Examine the genuineness and source of share capital, not on a test check basis, but in respect of each and every shareholder by conducting independent enquiry not through the assessee. The bank account for the entire period should be examined in the course of verification to find out the money trail of the share capital.*
- ii) *Further the A.O. should examine the directors as well as examine the circumstances which necessitated the change in directorship if applicable. He should examine them on oath to verify their credentials as director and reach a logical conclusion regarding the controlling interest.*
- iii) *The A.O. is directed examine the source of realization from the liquidation of assets shown in the balance sheet after the change of Directors, if any.”*

3. The assessee is at liberty to file evidences if any in support of its contention. AO shall construct the same to pass an order in accordance with law by giving opportunity to the assessee. Therefore, Grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open court 11.07.2018.

Sd/-
(P.M.JAGTAP)
ACCOUNTANT MEMBER

Sd/-
(S.S.VISWANETHRA.RAVI)
JUDICIAL MEMBER

Date:- 11.07.2018
Amit Kumar

Copy forwarded to:

1. Appellant- Naisha Infrastructure Pvt.Ltd., 23/24, Radha Bazar Street, Kolkata-700001.
2. Respondent-ITO, Ward-6(3), Aaykar Bhawan, P-7, Chowringhee Square, Kolkata-700069.
3. CIT
4. CIT(Appeals) concerned
5. DR: ITAT

Sr.P.S./H.O.O
ITAT, KOLKATA