

IN THE INCOME TAX APPELLATE TRIBUNAL : 'C' BENCH, KOLKATA

**Before : Shri J. Sudhakar Reddy, Accountant Member and
Shri S.S.Viswanethra Ravi, Judicial Member**

ITA No. 947/Kol/2014 A.Y 2009-10

**M/s. Ridhi Sidhi
Vintrade P.Ltd.**
PAN: AAECR 1123J
[Appellant]

Vs.

**Income Tax Officer
Ward 9(3), Kolkata**
[Respondent]

Appellant/ Assessee by : Shri S. M. Surna, Advocate, Id.AR
Respondent/ Department by : Shri G. Mallikarjun, CIT, Id.DR

Date of Hearing : 01-05-2018
Date of Pronouncement : 18-07-2018

ORDER

Shri S.S.Viswanethra Ravi, JM:

This appeal by the Assessee is against the order dt. 13-03-2014 of the CIT, III, Kolkata for the A.Y 2009-10 passed u/s. 263 of the Act.

2. The contention of the Ld. AR is that no notice was issued by the CIT in the proceedings initiated u/s. 263 of the Act and as such there was no representation on behalf of assessee and the CIT passed order ex parte by setting aside the assessment order dt. 29-11-2011 passed u/s. 143/147 of the Act and directed the AO to pass a speaking order. The Id.AR submits that the assessee is now ready to prosecute its case before the CIT, if this Tribunal pleases to remand the matter to the file of the CIT-A for his fresh consideration. On the other hand, the Id.DR did not oppose to the above submissions of the Id.AR.

3. Heard rival submissions and perused the record. From para 5 of the impugned order of the CIT, wherein we find that the CIT observed that notice u/s. 263 of the Act could not be served on the assessee at the given address and affixed the notice at the last known address of

the assessee intimating the hearing on 11-12-2013 and for non appearance on behalf of assessee, the CIT passed ex parte order. It is noted from the impugned order that the reason for initiating proceedings u/s. 263 in directing the AO that he failed to conduct the enquiries into various layers of transaction of subscriptions of share capital by subscriber companies. He further directed the AO to conduct independent, detailed and complete enquiry into subscription to the share capital and premium by issuing summons u/s. 131 of the Act. We find no such enquiry was made by the AO nor any such reference was made in respect of subscriptions to share capital. We further find that during the course of 263 proceedings there was no representation on behalf of assessee. Therefore, taking into consideration the facts and circumstances of the case, the submissions of the Id.AR and in the interest of justice, we remand the matter to the file of CIT to pass a fresh order, after giving the assessee adequate opportunity of hearing. The assessee shall be at liberty to file/submit necessary evidences/details/explanation in respect of the its claim and contention. Grounds raised by the assessee are allowed for statistical purpose.

6. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 18-07-2018

Sd/-
J. Sudhakar Reddy
Accountant Member

Sd/-
S.S. Viswanethra Ravi
Judicial Member

Dated : 18-07-2018

**PP(Sr.P.S.) Copy of the order forwarded to:

1. Appellant/Assessee: M/s. Ridhi Sidhi Vintrade Pvt. Ltd.
14C, M.D Road, 4th Floor, Kolkata-700 007.
2. Respondent/Department: Income Tax Officer, Ward 9(3), Kolkata,
Aaykar Bhawan, P-7 Chowringhee Square, Kolkata-700 069.
3. The CIT(A), Kolkata
4. CIT , Kolkata
5. DR, Kolkata Benches, Kolkata

/True Copy, By order Sr.P.S,H.O.O, ITAT.Kol