

3. The brief facts of this issue are that the Id AO observed that the assessee had raised share capital and premium by issuing 3322090 equity shares of Rs 10 each with premium of Rs 90 per share totaling to Rs 33,22,09,000/- during the financial year 2011-12 relevant to Asst year 2012-13. The Id AO observed that the assessee company in response to questionnaire of notice u/s 142(1) of the Act submitted the letter along with part of details called for. Thereafter no response was made by the assessee. The directors of the share applicant companies and the assessee company were issued summons u/s 131 of the Act which remained uncomplied. Accordingly the Id AO after issuing show cause notice to the assessee proceeded to complete the assessment u/s 144 of the Act by adding the entire receipt of share capital and share premium of Rs 33,22,09,000/- on the ground that there was no justification for the share applicant companies to invest in the assessee company with such premium. The Id AO also observed that the assessee company was incorporated on 8.3.2011 and hence within one year of incorporation without any business activity, it cannot command such a huge premium of Rs 90 per share and concluded that the assessee company had introduced the unaccounted funds in the form of share capital and share premium to legalise its own black money. With these observations, the Id AO added the sum of Rs 33,22,09,000/- as unexplained cash credit u/s 68 of the Act in the assessment. Before the Id CITA, none appeared on behalf of the assessee and the Id CITA upheld the action of the Id AO on merits. Aggrieved, the assessee is in appeal before us.

4. We have heard the rival submissions. We find that both the orders of the lower authorities were passed exparte due to non-compliance on the part of the assessee company. The Id AR vehemently pleaded that the assessee be given one last opportunity before the Id AO to present its facts with necessary evidences. In response thereto, the Id DR fairly agreed for the issue going back to the file of Id AO for fresh adjudication but insisted that the assessee should co-operate with the Id AO in furnishing the requisite details. In the facts of the instant case, we deem it fit and

appropriate, in the interest of justice and fairplay, to remand this appeal to the file of Id AO for denovo adjudication to pass orders in accordance with law. with a direction to the assessee to furnish the various details and requirements that would be called for by the Id AO in the set aside assessment proceedings. The assessee is also given liberty to furnish fresh evidences, if any, in support of its contentions. Accordingly, the 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 30.11.2018

Sd/-
[A T Varkey]
Judicial Member

Sd/-
[M.Balaganesh]
Accountant Member

Dated : 30.11.2018
SB, Sr. PS

Copy of the order forwarded to:

1. M/s Intime Commosales Pvt. Ltd., 'Asha Chambers'Room No. 25, 6B, Bentick Street, Kolkata-700001.
2. TRO-2, Kolkata, 54/1, Rafi Ahmed Kidwai Road, Kolkata-700016.
3. C.I.T(A)-
4. C.I.T.- Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By Order

Assistant Registrar
ITAT, Kolkata Benches