

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**KOLKATA BENCH “A”, KOLKATA**  
**BEFORE SH. J.SUDHAKAR REDDY, ACCOUNTANT MEMBER &**  
**SH. S.S.VISWANETHRA RAVI, JUDICIAL MEMBER**

**ITA No.2003/KOL/2017**  
**(ASSESSMENT YEAR-2008-09)**

M/s. Divyansh Enclave Pvt.Ltd., 7A, Bentinck Street, Ground Floor, Room No.16, Kolkata-700001. PAN-AACCD7532R	<b>vs</b>	ITO, Ward-6(1), Aayakar Bhawan, 6 <sup>th</sup> Floor, R.No.-6/13B, P-7, Chowringhee Square, Kolkata-700069.
<b>(Appellant)</b>		<b>(Respondent)</b>
<b>Appellant by</b>		Sh.Rajeeva Kumar, Adv.
<b>Respondent by</b>		Sh.Sankar Halder, JCIT, Sr. DR
<b>Date of Hearing</b>		19.11.2018
<b>Date of Pronouncement</b>		14.12.2018

**ORDER**

**PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER**

This appeal filed by the assessee against the order dated 02.03.2017 passed by CIT(A)-23, Kolkata for AY 2008-09.

2. Heard both parties and perused the material available on record. It was contended by the Ld.AR that there was no opportunity before the CIT(A) to prosecute grounds raised against the addition made by the AO and prayed to remand the matter to the CIT(A). Ld.DR opposed the same and referred to para “C” of the impugned order and argued that the CIT(A) issued notice intimating the fixation of date for hearing on 23.01.2017 and notice returned unserved with a remark ‘moved’. Ld. DR submits that the assessee has been given ample opportunity before the CIT(A) wherein the CIT(A) directed the AO to serve notice on assessee. The Inspector conducted local inquiry but no one could identify the existence of the assessee company at the said address. We find that the AO made substantive addition on account of unaccounted cash credit u/s 68 of the

Income Tax Act, 1961 (in short "Act") wherein in our opinion requires assistance of the assessee to prosecute its grounds raised before the CIT(A). Therefore, taking into consideration the said facts and the submissions of Ld.DR & Ld.AR and in the interest of justice, we deem it proper to remand the matter to the file of CIT(A) for his fresh consideration. The assessee is liberty to file evidences, if any, in support of his contention. Thus, 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 on 14.12.2018.**

**Sd/-**

**(J.SUDHAKAR REDDY)  
ACCOUNTANT MEMBER**

*Date:- 14.12.2018*

*\*Amit Kumar\**

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1. Appellant- M/s. Divyansh Enclave Pvt.Ltd., 7A, Bentinck Street, Ground Floor, Room No.16, Kolkata-700001.
2. Respondent- ITO, Ward-6(1), Aayakar Bhawan, 6<sup>th</sup> Floor, R.No.- 6/13B, P-7, Chowringhee Square, Kolkata-700069.
3. CIT-Kolkata
4. CIT(Appeals)-Kolkata
5. DR: ITAT -Kolkata Benches

By order

AR/H.O.O  
ITAT, KOLKATA