

आयकर अपीलीय अधीकरण, न्यायपीठ – “A” कोलकाता,  
IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA BENCH “A” KOLKATA

Before **Shri J.Sudhakar Reddy, Accountant Member** and  
**Shri S.S.Godara, Judicial Member**

**ITA No.1395/Kol/2017**  
Assessment Year:2012-13

M/s Bhawani Merchants Pvt. Ltd., 9/12, Lal Bazar Street, 3 <sup>rd</sup> Floor, Kolkata-700 001 [PAN No.AAECB 8589 L]	बनाम/ V/s.	Income Tax Officer, Ward-5(3), P-7, Chowringhee Square, Kolkata-69
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	None
प्रत्यर्थी की ओर से/By Respondent	Shri A.K.Nayaka, CIT-DR
सुनवाई की तारीख/Date of Hearing	12-12-2018
घोषणा की तारीख/Date of Pronouncement	26-12-2018

**आदेश /O R D E R**

PER S.S.Godara, Judicial Member:-

This assessee’s appeal for assessment year 2012-13 arises against the Commissioner of Income Tax (Appeals)-23, Kolkata’s order dated 03.05.2017 passed in case No.104/CIT(A)-23/W-5(3)/16-17 involving proceedings u/s 144 of the Income Tax Act, 1961; in short ‘the Act’.

Case called twice. None appears at assessee’s behest despite the fact that the registry has already sent it an RPAD notice dated 31.10.2018. It is accordingly proceeded *ex parte*.

2. We now come to assessee’s pleadings. It has raised two substantive grounds in the instant appeal. Its former grievance challenges correctness of both the lower authorities’ action treating its share / premium amount of ₹20,73,01,000/- as unexplained cash credits u/s 68 of the Act. Its latter substantive ground seeks to delete u/s 14A r.w.s. Rule 8D disallowance of ₹18,650/- made in the course of assessment as upheld in lower appellate proceedings. We find that the assessee had not put in appearance in lower appellate

proceedings as well. The CIT(A)'s order in page 2 para-3 has made it clear that the three hearing notice(s) stood served upon the assessee. Learned CIT-DR vehemently contends during the course of hearing the CIT(A) has rightly affirmed assessment findings on two substantive issues therefore. We find no merit in Revenue's above vehement contentions in support of both the lower authorities' action on sec.68 as well as sec. 14A r.w.s Rule 8D issue. The fact remains that there is no adjudication in CIT(A)'s order on relevant facts of the case followed by points of determination and detailed discussion as contemplated u/s. 250(6) of the Act. The CIT has simply brushed aside assessee's grievance by quoting this tribunal's order in *Subhalakshmi Vanijya Pvt. Ltd & others ITA No.1104/Kol/2014* affirming CIT(A)'s revision proceedings in case of non-inquiry on part of the Assessing Officer during the course of scrutiny. We reiterate that the instant appeal involves assessment and not revision proceedings u/s 263 of the Act. We therefore restore assessee's both substantive grounds back to the CIT(A) for afresh adjudication on merits after serving the relevant notice of hearing subject to payment of ₹10,000/- as cost since it has not put in appearance throughout.

3. This assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced in open court on 26/12/2018

Sd/-

(लेखा सदस्य)

(J.Sudhakar Reddy)

Accountant Member

\*Dkp-Sr.PS

Sd/-

(न्यायिक सदस्य)

(S.S.Godara)

Judicial Member

दिनांक:- 26/12/2018 कोलकाता / Kolkata

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. अपीलार्थी/Appellant-M/s Bhawani Merchants Pvt. Ltd. 9/12, Lal Bazar Street, 3<sup>rd</sup> Fl, Kolkata-001
2. प्रत्यर्थी/Respondent-ITO Ward No.5(3), P-7, Chowringhee Square, Kolkata-69
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता/DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
कोलकाता ।