

आयकर अपीलिय अधीकरण, न्यायपीठ – “B” कोलकाता,
*IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH “B” KOLKATA*

Before **Shri S.S.Godara, Judicial Member** and
Shri, M. Balaganesh, Accountant Member

ITA No.2476/Kol/2017
Assessment Year :2009-10

M/s Charoit Agency (P) Ltd., Dashadrone, Ground Floor, Dowaripara, P.O. R. Goplapura, P.Baguihati, Kolkata-700136 [PAN No.AADCC 5568 P]	V/s.	Income Tax Officer, Ward-6(1), Aayakar Bhawan,P-7, Chowringhee Square, 6 th Floor, Kolkata-69
अपीलार्थी /Appellant	..	प्रत्यर्थी/Respondent

अपीलार्थी की ओर से/By Appellant	Shri S.M. Surana, Advocate
प्रत्यर्थी की ओर से/By Respondent	Shri Robin Choudhury, Addl. CIT-DR
सुनवाई की तारीख/Date of Hearing	03-12-2018
घोषणा की तारीख/Date of Pronouncement	26-12-2018

आदेश /ORDER

PER S.S.Godara, Judicial Member:-

This assessee's appeal for assessment year 2009-10 arises against the Commissioner of Income Tax (Appeals)-23, Kolkata's order dated 20.03.2017 passed in case No.148/CIT(A)-23/W-6(1)/16-17 involving proceedings u/s 143(3) r.w.s. 144 r.w.s. 147 r.w.s. 263 of the Income Tax Act, 1961; in short 'the Act'.

Heard both the sides. Case file perused.

2. This assessee's sole substantive ground raised in the instant appeal challenges both the lower authorities' action treating its share application / premium amounting to ₹5,86,15,000/- to be its unexplained cash credits u/s 68 of the Act. We notice at the outset that the CIT(A) has passed his lower appellate order ex parte against the assessee whilst affirming the Assessing Officer's action making the impugned addition. It transpires during the course of hearing that CIT(A) had failed to serve the relevant hearing notice at the first instance. He then deputed his office

inspector who reported that the assessee's office could not be located for the purpose of affecting service of hearing notice. Learned Addl. CIT-DR vehemently contends during the course of hearing that assessee's premises could not be located at the given address that forms the precise reason for the CIT(A) to affirm the assessment findings. We find no merit in Revenue's above arguments. It emerges from the CIT(A)'s operative part that he has simply not discussed merits of the issue followed by detailed adjudication as contemplated u/s.250(6) of the Act. Coupled with, we find that the assessee's address has remained the same as throughout right from as till the instant second appellate proceedings. The Assessing Officer had successfully served the relevant hearing notice on the very address during the course of assessment. We therefore observe in these peculiar facts and circumstances that assessee deserves one more innings before the CIT(A). We therefore restore the instant appeal back to the CIT(A) for afresh adjudication as per law. It is made clear that assessee shall itself put in appearance before the CIT(A) within eight weeks of receiving the copy of our instant order. The CIT(A) shall thereafter grant three effective opportunities of hearing to the assessee for presenting its case at his own risk and responsibility.

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

Order pronounced in the open court 26/12/2018

Sd/-

(लेखा सदस्य)

(M.Balaganesh)

(Accountant Member)

Kolkata,

*Dkp, Sr.P.S

दिनांक:- /12/2018 कोलकाता ।

आदेश की प्रतिलिपि अद्येषित / Copy of Order Forwarded to:-

1. अपीलार्थी/Appellant-M/s Charoit Agency (P) Ltd., Dashadrone, Ground Floor, Dowaripara
P.O. R. Goplapura, P. Baguihati, Kolkata-700136
2. प्रत्यर्थी/Respondent-ITO Ward-6(1), P-7, Chowringhee Sq. 6th Floor, Kolkata-69
3. संबंधित आयकर आयुक्त / Concerned CIT Kolkata
4. आयकर आयुक्त- अपील / CIT (A) Kolkata
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

By order/आदेश से,

/True Copy/

उप/सहायक पंजीकार

आयकर अपीलीय अधिकरण, कोलकाता ।