

**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH: KOLKATA**  
[Before Shri J. Sudhakar Reddy, AM & Shri A.T. Varkey, JM]

**I.T.A. No. 1876/Kol/2016**  
**Assessment Year: 2012-13**

ITO, Ward 10(4), Kolkata	Vs.	M/s. Sheela Cold Storage Pvt. Ltd. (PAN: AAHCS 6451 K)
Appellant		Respondent

Date of Hearing	10.12.2018
Date of Pronouncement	28.12.2018
For the Appellant	Shri C.J. Singh, JCIT, Sr. DR
For the Respondent	None

**ORDER**

**Per Shri A.T.Varkey, JM**

This is an appeal preferred by the revenue against the order of Ld. CIT(A)- 4, Kolkata dated 14.07.2016 for AY 2012-13.

2. At the outset, we note that though this appeal is preferred by the revenue and that the impugned order was passed on 14.07.2016 and till date when the appeal was fixed for hearing, none appeared on behalf of the assessee. We note that this is the 9<sup>th</sup> time the appeal has been fixed and the notices have been sent by RPAD several times to the assessee and the assessee has not cared to appear or make arrangement to engage an AR to defend the appeal preferred against it before us.

3. We note that this is a case where is addition has been made by the AO u/s 68 to the tune of Rs. 3,03,02,730/-. According to the AO, the assessee company had failed to discharge its onus of proving the genuineness of the transactions and identity and creditworthiness of the subscribers while raising capital at huge share premium and that the assessee failed to corroborate the high value and creditworthiness of the ratio of such share premium before the AO during the assessment proceedings. We note that the appeal filed by revenue raises mixed question of fact and law and needs to examine the documents in order

to adjudge the legality of the action of the Ld. CIT(A) in respect to identity, creditworthiness and genuineness of the share subscribers who had introduced credit in the books of the assessee. Since neither the assessee nor the AR has appeared though the matter was listed several times and has not even cared to file any paper book, we are unable to ascertain the legality of the addition deleted by the Ld. CIT(A), without proper assistance from the Ld. AR of the assessee. In the light of aforesaid facts and circumstances we would not be able to adjudicate the question/grounds raised before us and so in the interest of justice and fair play we set aside the order of the Ld. CIT(A) and remand the matter back to the file of the Ld. CIT(A) for de novo adjudication of the appeal of the assessee challenging the addition made by the Assessing Officer after hearing the assessee and AO as per Income Tax Rules 1962 and pass a speaking order in accordance with law.

4. In the result, the appeal of the Revenue is allowed for statistical purposes.

Order is pronounced in the open court on 28th December, 2018

Sd/-  
(J. Sudhakar Reddy)  
Accountant Member

Sd/-  
(Aby. T. Varkey)  
Judicial Member

Dated : 28<sup>th</sup> December, 2018

Biswajit (Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – ITO, Ward 10(4), P-7, Chowringhee Square, 3<sup>rd</sup> Floor, Kolkata -700 069.
2. Respondent – M/s. Sheela Cold Storage Pvt. Ltd., 49, Ganesh Chandra Avenue, Kolkata – 700 013.
3. The CIT(A) -4, Kolkata. (sent through e-mail)
4. CIT Kolkata.
5. DR, ITAT, Kolkata. (sent through e-mail)

/True Copy,

By order,

Assistant Registrar