

IN THE INCOME TAX APPELLATE TRIBUNAL "B", BENCH KOLKATA
BEFORE SHRI A.T. VARKEY, JM & DR. A.L.SAINI, AM

आयकरअपीलसं./ITA No.1947/Kol/2017

(निर्धारणवर्ष / Assessment Year : 2012-13

M/s Darshan Consultants Pvt. Ltd. 53A, Mirza Galib Street, 4 th Floor, Kolkata-700016.	Vs.	ITO, Ward-8(2), Kolkata Aayakar Bhawan, P-7, Chowringhee Square, Kolkata-700069
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. : AADCD 8462 F		
(अपीलार्थी/Assessee)	..	(प्रत्यर्थी / Respondent)

निर्धारितीकीओरसे /Assessee by : Shri M. D. Shah, AR

राजस्वकीओरसे /Revenue by : Shri A.K. Singh, CIT DR

सुनवाईकीतारीख/ **Date of Hearing** : **26/12/2018**

घोषणाकीतारीख/**Date of Pronouncement** : **31/12/2018**

देश / ORDER

Per Dr.Arjun Lal Saini, AM:

The captioned appeal filed by the Assessee pertaining to assessment year 2012-13, is directed against an order passed by the learned Commissioner of Income Tax (Appeals)-16, Kolkata (in short the Id. CIT(A)] in appeal no. 830/CIT(A)-16/Kol/2015-16/W-8(2), which in turn arises out of an assessment order passed by the Assessing Officer u/s 143(3) of the Income Tax Act, 1961 (in short the Act) dated 17.03.2015.

2. At the outset the Id .DR brought to our knowledge that a new development has taken place in the case of assessee. As per the Id. DR, after the assessment was framed against the assessee, a search was carried out on 03.01.2018 wherein the statement of director of this assessee company was also recorded u/s 132(4) of the Act wherein for question no. 9 the director has accepted that the assessee company which is seen at serial no. 6 of the table given under answer to question no. 9 that it was controlled and managed by him and that the assessee company is a paper / shell company formed with the sole purpose of providing accommodation entries in the form of bogus share premium / bogus unsecured loans to different beneficiaries. In the light of the aforesaid development, in the interest of justice and fair play, the assessment made, need to be framed afresh. The Id. A/R could not controvert the fact of the search conducted on the assessee on 03.01.2018 and the statement of the director of the assessee company as recorded above. In the light of the aforesaid new development, and keeping in mind, the settled position of law that the tax has to be assessed on the right person, right income and in the right assessment year, we set aside the impugned order and remit the matter back to the file of the Assessing Officer for de novo adjudication in the light of the new development after the search which happened on 03.01.2018.

3. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on this 31 / 12/2018.

Sd/-

(A.T. VARKEY)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-

(DR. A.L.SAINI)

लेखा सदस्य / ACCOUNTANT MEMBER

कोलकाता/Kolkata; दिनांक Dated 31/ 12/2018

SB, Sr.PS.

□ देशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Assessee- M/s Darshan Consultants Pvt. Ltd.
2. प्रत्यर्थी/ The Respondent.- ITO, Ward-8(2), Kolkata.
3. आयकरआयुक्त(अपील) / The CIT(A), :Kolkata.
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, कोलकाता/ DR, ITAT, Kolkata
6. गार्डफाईल / Guard file.

सत्यापितप्रति //True Copy// By Order

Assistant Registrar
I.T.A.T., Kolkata Benches,
Kolkata