

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH (A), KOLKATA
[Before Shri P.M. Jagtap, Vice President & Shri S.S. Viswanethra Ravi, JM]**

I.T.A. No. 2098/Kol/2016

Assessment Year: 2012-13

M/s Arrissan Ventures Pvt. Ltd.....Appellant
Plot No. DN-23, 5th Floor, Sector-V,
Saltlake City, Kolkata-700091
[PAN: AAECM 7213 N]

ITO, Ward-2(2), Kolkata.....Respondent
P-7, Chowringhee Square,
Kolkata – 700 069.

Appearances by:

Shri Miraj D. Shah, FCA appearing on behalf of the Assessee.

Shri Radhey Shyam, CIT (DR) appearing on behalf of the Revenue.

Date of concluding the hearing : December 20, 2018

Date of pronouncing the order : December 20, 2018

ORDER

Per P.M. Jagtap, Vice President

This appeal filed by the assessee is directed against the order of Ld. CIT(A) – 1, Kolkata dated 02.08.2016.

2. The assessee in the present is a company which is engaged in the business of dealing in shares and securities. The return of income for the year under consideration was filed by it on 01.12.2012 declaring a total income of Rs. 24,990/-. During the course of assessment proceedings, the claim of the asse of having received a huge share application money along with premium aggregating to Rs. 40,00,00,000/- was examined by the AO . During the course of such examination, he issued summons u/s 131 to the directors of the share applicant companies. Although the directors of the said companies appeared before the AO in response to the summons u/s 131 and also filed certain documents as required by him, they sought time to

dispose before him. The AO accordingly allowed time to the said directors but they did not appear before the AO on the given date for recording their statements. Even the assessee failed to produce the said directors of the share applicant companies for examination before the AO. The AO, therefore, treated the entire share application money including share premium of Rs. 40,00,00,000/- received by the assessee during the year under consideration as unexplained cash credits and made addition to the total income of the assessee to that extent u/s 68 of the Act. He also made a further addition of Rs. 1,27,760/- on account of disallowance u/s 14A and determined the total income of the assessee at Rs. 40,01,52,750/- in the assessment completed u/s 143(3) vide an order dated 20.03.2015.

3. Against the order passed by the AO u/s 143(3), an appeal was filed by the assessee before the Ld. CITCA) and since there was no satisfactory compliance on the part of the assessee to the notices issued by him fixing the said appeal for hearing from time to time, the Ld. CIT(A) dismissed the appeal of the assessee vide his impugned order passed ex-parte thereby confirming both the additions made by the AO to the total income of the assessee. Aggrieved by the order of the Ld. CIT(A), the assessee has preferred this appeal before the Tribunal.

4. We have heard the arguments of both the sides and also perused the relevant material available on record. Although the learned counsel for the assessee has explained the non-compliance on the part of the assessee before the Ld. CITCA) and has sought the remand of the matter to the Assessing Officer for giving one more opportunity to produce the

directors of the share subscribing companies for examination, it is observed that the compliance on the part of the assessee even during the course of assessment proceedings before the AO was not satisfactory. Keeping in view this casual approach of the assessee, we are of the view that one more opportunity to explain the relevant cash credits representing share capital and share premium in terms of section 68 by producing the directors of the share subscribing companies for examination before the AO as sought by the learned counsel for the assessee can justifiably given only subject to imposition of a cost of Rs. 5,000/-. We accordingly set aside the impugned order passed by the Ld. CIT(A) ex-parte and restore the matter to the file of the AO for deciding the same afresh after giving such opportunity to the assessee subject to a payment of cost of Rs. 5,000/- to the Income Tax Department. As undertaken by the learned counsel for the assessee at the time of hearing before the Tribunal, the assessee shall make due compliance before the Assessing Officer and produce the directors of the share subscribing companies for examination so as to enable the AO to complete the assessment afresh expeditiously.

5. In the result, the appeal of the assessee is treated as allowed for statistical purpose.

Order Pronounced in the Open Court on 20th December, 2018.

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

Sd/-
(P.M. Jagtap)
VICE PRESIDENT

Dated: 20/12/2018
Biswajit, Sr. PS

Copy of order forwarded to:

1. M/s Arissan Ventures Pvt. Ltd., Plot No. DN-23, 5th Floor, Sector-V, Saltlake City, Kolkata-700091.
2. ITO, Ward-2(2), Kolkata, P-7, Chowringhee Square, Kolkata-700069
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Assistant Registrar / H.O.O.
ITAT, Kolkata