

**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA BENCH “D”, KOLKATA  
BEFORE SH. P.M.JAGTAP, VICE PRESIDENT &  
SH. S.S.VISWANETHRA RAVI, JUDICIAL MEMBER**

**ITA No.1026/KOL/2016  
(ASSESSMENT YEAR-2010-11)**

Kalimata Krishipanya Bipanan Pvt.Ltd., Lichutala, P.S.Kalna, Dist.-Burdwan-713409. PAN-AADCK1968K	<b>Vs</b>	ACIT, Circle-1, Aayakar Bhawan, Kachari Road, Court Compound, Dist.- Burdwan-713101.
<b>(Appellant)</b>		<b>(Respondent)</b>
<b>Appellant by</b>		Sh.S.Bhattacharya, LD.AR
<b>Respondent by</b>		Sh. S.Biswas, Addl. CIT
<b>Date of Hearing</b>		29.08.2018
<b>Date of Pronouncement</b>		22.11.2018

**ORDER**

**PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER**

This appeal by the assessee against the order dated 29.02.2016 passed by CIT(A), Burdwan for AY 2010-11.

2. The only issue is to be decided as to whether the CIT(A) is justified u/s 68 of the Income Tax Act, 1961 (in short “Act”) in confirming the disallowance made on account of unexplained cash credit in the facts and circumstances of the case.

3. The brief facts of the case are that the assessee is a Private Limited Company and engaged in trading of agricultural products. The assessee conducts its business under the name and style of M/s. Kalimata Krishipanya Bipannan Pvt. Ltd. During the course of assessment proceedings, the AO found that the assessee had received share application

money and share premium from several persons. The AO asked the assessee to furnish details regarding the identity, copy of balance sheet to prove creditworthiness and also bank statement of all the persons to prove the genuineness of the transactions. The assessee has given a reply that the assessee has received share application money from 42 persons, filed confirmation and balance sheet for all the persons and bank statement for only 05 persons. On examination of the said details, the AO held identity of the said persons proved, fail to prove the creditworthiness and genuineness of the transaction and held the cash credit is not satisfactorily explained and added an amount of Rs.36,46,300/- to the total income of the assessee vide its order dated 22.03.2013.

4. Before CIT(A), the assessee filed details of resolution and allotment of shares. The CIT(A) held filing of the said details in the first appellant proceedings are of the after thought and the alleged share applicants does not have financial wherewithal to invest any Private Limited Company. The CIT(A) confirmed the view of the AO and affirmed the addition made by the AO u/s 68 of the Act.

5. Before us, Ld.AR submits that the assessee filed all the details in respect of all the persons i.e. return of income but however, the AO held creditworthiness of share applicants and genuineness of the transactions are not proved, is not correct. Ld.AR referred to page 46 to 61 of the Paper Book and argued that the persons mentioned in Sl.No.01 to 37 are general businessmen or agriculturists. They are related with Directors and showed their intention to be a part of the company and to invest small portion of

their net means. The income of the persons from Sl.No.01 to 37 are below the tax limit and no return of income required to be filed. The details like PAN Cards to prove the identity of the said persons were given.

6. Ld. DR submits that no details were filed before the AO and argued that it became a practice for share applicants to state not having bank accounts and PAN. The AO discussed the issue in details as was confirmed by the CIT(A) in his order at page 5 of the CIT(A) and placed reliance on the order of the CIT(A).

7. Heard both parties and perused the material available on record. As discussed above, both the authorities below held that identity of the persons from Sl.No.01 to 42 were proved and genuineness of transaction and creditworthiness of persons from Sl.No.01 to 37 are not proved. The genuineness of the transactions and creditworthiness of share applicants from Sl.No.38 to 42 were proved. In respect of Sl.No.01 to 37, we find that the AR filed details of the said persons i.e. ITRs, balance sheet, election commission cards, PANs from page No.17 to 61. Admittedly all these details were before the AO and on examination of which the AO held as discussed above the identity of all persons proved and the other two ingredients were not proved.

8. On perusal of the income tax returns, balance sheets and P&L accounts placed at pages at 46 to 61 clearly shows the said persons are of very limited worth and did not have the financial capacity to invest in assessee's company. On an examination of balance sheet as provided in the Paper Book before us, seems to be contrived documents and made with an

after thought. In our opinion, the said balance sheet in any way does not prove the creditworthiness of share applicants and as discussed above, we agree with the finding of CIT(A) that share applicants do not have creditworthiness to make investments with assessee company. Therefore, we cannot give any credence to such evidence when the net worth of share applicants is very negligible and limited. The documentary evidence filed by the assessee before the authorities including this Tribunal shows the share applicants does not have the financial capability in investing in assessee's company. Therefore, in our opinion, the assessee failed to prove the creditworthiness of the share applicants from Sl. No.1 to 37 and genuineness of the transactions thereon. It is needless to say the onus is on the assessee to prove the ingredients provided u/s 68 of the Act and the assessee is not able to discharge the said onus caused upon him. Therefore, we find no infirmity in the order of the CIT(A) and it is justified. Ground Nos. 1 to 3 raised by the assessee in this regard are dismissed.

9. In the result, the appeal of the assessee is dismissed.

**Order pronounced in the open court on 22.11.2018.**

**Sd/-**  
**(P.M.JAGTAP)**  
**VICE PRESIDENT**

**Sd/-**  
**(S.S.VISWANETHRA RAVI)**  
**JUDICIAL MEMBER**

*Date:- 22.11.2018*  
*\*Amit Kumar\**

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1. Appellant- Kalimata Krishipanya Bipanan Pvt.Ltd., Lichutala, P.S.Kalna, Dist.-Burdwan-713409.
2. Respondent- ACIT, Circle-1, Aayakar Bhawan, Kachari Road, Court Compound, Dist.-Burdwan-713101.
3. CIT-Kolkata
4. CIT(Appeals)-Kolkata
5. DR: ITAT -Kolkata Benches

AR/H.O.O  
ITAT, KOLKATA