

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

**I.T.A. No.1586/Kol/2017
Assessment Year: 2012-13**

Kasvi Development Pvt. Ltd.....Appellant
24G, 2nd Floor,
Sura 3rd Lane,Beliaghata,
Kolkata – 700 010.
[PAN:AAECK 3316 Q]

ITO, Ward 9(4), Kolkata.....Respondent
Aayakar Bhawan,
Kolkata – 700 069.

Appearances by:

Shri Manish. Tiwari, Advocate, appearing on behalf of the Assessee.

Shri Shankar Halder, Sr(DR), JCIT, appearing on behalf of the Revenue.

Date of concluding the hearing : February 04, 2019

Date of pronouncing the order : February 08, 2019

ORDER

Per P.M. Jagtap, Vice President

This appeal filed by the assessee is directed against the order of Ld. CIT(A) – 12, Kolkata dated 31.03.2017 passed ex-parte whereby he dismissed the appeal of the assessee.

2. The assessee in the present case is a company which is engaged in the business of trading and investment in shares. The return of income for the year under consideration was filed by it on 27.09.2012 declaring a total income of Rs. 4,580/-. During the course of assessment proceedings, the assessee company was required by the A.O. to explain the cash credits representing share capital of Rs. 1,43,00,000/- received during the year under consideration by establishing the identity and capacity of the concerned shareholders as well as the genuineness of the relevant transactions by furnishing the necessary supporting documentary evidence. The assessee

company however failed to comply with the said requirement. The assessee also failed to respond to the summons issued by the A.O. u/s 131. The A.O., therefore, treated the share capital of Rs. 1,43,00,000/- received by the assessee company during the year under consideration as unexplained cash credit and made addition to that extent to the total income of the assessee u/s 68 in the assessment completed u/s 143(3) vide an order dated 19.03.2015.

3. Against the order passed by the A.O. u/s 143(3), an appeal was preferred by the assessee before the Ld. CIT(A) and since there was no response 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 appellate order dated 31.03.2017 passed ex-parte. 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 contended that the notice of hearing finally fixed on 30.03.2017 issued by the Ld. CIT(A) on 23.03.2017 was received by the assessee only after the date of hearing, it is observed that the assessee has failed to explain the non-compliance to the notice issued by the Ld. CIT(A) fixing the appeal for hearing initially on 22.03.2017. It is also observed that there was a similar non-compliance on the part of the assessee even during the course of assessment proceedings before the A.O. Keeping in view this casual and negligent approach of the assessee, we are of the view that

one more opportunity to explain the relevant cash credits representing share capital in terms of section 68 by producing the relevant supporting documentary evidence as sought by the learned counsel for the assessee can justifiably be 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 A.O. for deciding the matter afresh after giving such opportunity to the assessee subject to a payment of cost of Rs. 5,000/- to the Income Tax Department.

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

Order Pronounced in the Open Court on 8th February, 2019.

Sd/-

(A. T. Varkey)
JUDICIAL MEMBER

Sd/-

(P.M. Jagtap)
VICE PRESIDENT

Dated: 08/02/2019

Biswajit, Sr. PS

Copy of order forwarded to:

1. Kasvi Development Pvt. Ltd., 24G, 2nd Floor, Sura 3rd Lane, Beliaghata, Kolkata – 10.
2. ITO, Ward 9(4), Aayakar Bhawan, Kolkata – 700 069.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

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