

S.A. No. 10/KOL/2019  
(in ITA No. 2248/KOL/2018)  
A.Y. 2012-2013  
Vishaljoy Vinimay Pvt. Limited

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
KOLKATA 'B' BENCH, KOLKATA**

**Before Shri P.M. Jagtap, Vice-President (KZ)  
and Shri S.S. Viswanethra Ravi, Judicial Member**

**S.A. No. 10/KOL/2019  
(arising out of I.T.A. No. 2248/KOL/2018)  
Assessment Year: 2012-2013  
&  
I.T.A. No. 2248/KOL/2018)  
Assessment Year: 2012-2013**

***Vishaljoy Vinimay Pvt. Limited,.....Applicant/Assessee  
C/o. Subash Agarwal & Associates,  
Advocates, Siddha Gibson,  
1, Gibson Lane, 2<sup>nd</sup> Floor, Suite-213,  
Kolkata-700 069  
[PAN: AABCV 0357 R]***

**-Vs.-**

***Deputy Commissioner of Income Tax,.....Respondent  
Circle-1(2), Kolkata,  
Aayakar Bhawan,  
P-7, Chowringhee Square, Kolkata-700 069***

**Appearances by:**

*Shri Subash Agarwal, Advocate, for the Applicant  
Shri Robin Chaudhary, Addl. CIT, D.R., for the Respondent*

Date of concluding the hearing : February 15, 2019

Date of pronouncing the order : February 15, 2019

**O R D E R**

**Per Shri P.M. Jagtap, Vice-President (KZ):-**

At the time of hearing of this Stay Application, the Id. Counsel for the assessee has submitted that the corresponding appeal of the assessee being ITA No.2248/KOL/2018 involves a small issue and the same itself can be heard and disposed of on priority. The Id. D.R. has also accepted this prayer of the Id. Counsel for the assessee. Accordingly, both of them

have taken notice and the appeal of the assessee being ITA No. 2248/KOL/2018 has been heard.

2. The assessee in the present case is a Company, which is engaged in the business of financing. The return of income for the year under consideration was filed by it on 29.09.2012 declaring total income of Rs.55,31,930/-. During the year under consideration, the assessee had received share capital amount of Rs.2,00,00,000/- including the share premium of Rs.990/- per share although the relevant details of the share subscriber companies were furnished by the assessee during the course of assessment proceedings before the Assessing Officer. The summons issued by the Assessing Officer to the said share subscriber companies under section 131 remained un-served. The assessee also could not produce the said share subscriber companies for verification before the Assessing Officer. The Assessing Officer, therefore, treated the entire share capital and share premium amount of Rs.2,00,00,000/- as unexplained cash credit and an addition to that extent was made by him to the total income of the assessee in the assessment completed under section 143(3) vide an order dated 31.03.2015.

3. Against the order passed by the Assessing Officer under section 143(3), an appeal was preferred by the assessee before the Id. CIT(Appeals) and since there was no compliance on the part of the assessee to the notices issued by him fixing the said appeal for hearing from time to time, the Id. CIT(Appeals) dismissed the appeal of the assessee vide his appellate order dated 28.08.2018 passed ex-parte thereby confirming the addition made by the Assessing Officer under section 68. Aggrieved by the order of the Id CIT(Appeals), 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. The Id. Counsel for the assessee has submitted that applications were duly sent by the assessee seeking adjournment of hearings fixed before the Id. CIT(Appeals) by e-mail, but the Id. CIT(Appeals) failed to take cognizance of the same and dismissed the appeal of the assessee vide his impugned order passed ex-parte without giving any further opportunity of being heard to the assessee. He has also submitted that even the Assessing Office during the course of assessment proceedings did not allow sufficient opportunity to the assessee to produce the concerned share subscriber companies for examination inspite of the fact that the relevant details of the said share subscriber companies as required by the Assessing Officer were duly furnished by the assessee. He has urged that this matter may, therefore, be sent back to the Assessing Officer for giving one more opportunity to the assessee to produce the concerned share subscriber companies for examination. Since the Id. D.R. has also not raised any objection in sending the matter back to the Assessing Officer, we set aside the impugned order passed by the Id. CIT(Appeals) and restore the matter to the file of the Assessing Officer for deciding the same afresh on merit after giving one more opportunity to the assessee to produce the concerned share subscriber companies for examination.

**5. In the result, the appeal of the assessee is treated as allowed for statistical purposes, while the Stay Application of the assessee is dismissed.**

Order pronounced in the open Court on February 15, 2019.

**Sd/-**  
**(S.S. Viswanethra Ravi)**  
**Judicial Member**

**Sd/-**  
**(P.M. Jagtap)**  
**Vice-President (KZ)**

***Kolkata, the 15<sup>th</sup> day of February, 2019***

*Copies to : (1) Vishaljoy Vinimay Pvt. Limited,*

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Advocates, Siddha Gibson,  
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Kolkata-700 069***

***(2) Deputy Commissioner of Income Tax,  
Circle-1(2), Kolkata, Aayakar Bhawan,  
P-7, Chowringhee Square, Kolkata-700 069***

***(3) Commissioner of Income Tax (Appeals)-1, Kolkata,  
(4) Commissioner of Income Tax- ,  
(5) The Departmental Representative  
(6) Guard File***

*By order*

*Assistant Registrar,  
Income Tax Appellate Tribunal,  
Kolkata Benches, Kolkata*

***Laha/Sr. P.S.***