

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

I.T.A. No. 424/Kol/2019
Assessment Year: 2012-13

Majority Infrastructure Pvt. Ltd.,.....Appellant
Commerce House, 7th Floor, R. No. 1,
2A, Ganesh Chandra Avenue,
Kolkata – 700 013.
[PAN: AAHCM 7995 G]

ITO Ward 45(2), Kolkata.....Respondent
Kolkata.

Appearances by:

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

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

Date of concluding the hearing : March 15, 2019

Date of pronouncing the order : March 15, 2019

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 30.01.2019 passed ex-parte whereby he dismissed the appeal of the assessee for non-prosecution.

2. The assessee in the present case is a company which is engaged in the business of share trading and investment. The return of income for the year under consideration was filed by it on 30.03.2013 declaring a total income of Rs. 8,516/-. During the course of assessment proceedings, the claim of the assessee of having received share capital and share premium aggregating to Rs. 5,22,00,000/- was examined by the AO. During the course of the said examination, he issued notices u/s 131 of the shareholders. None, however, appeared before the AO in response to the said notices. The AO, therefore, required the assessee to produce all the shareholders along with the relevant documentary evidence for examination. The assessee

however failed to comply with the said requirements. The AO accordingly treated the entire amount of share capital and share premium received by the assessee during the year under consideration as unexplained cash credits and addition of Rs. 5,22,00,000/- was made by him to the total income of the assessee u/s 68 in the assessment completed vide order dated 04.03.2015 passed u/s 143(3) of the Act.

3. Against the order passed by the AO under section 143(3), the assessee filed an appeal before the Ld. CIT(A) 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 for non-prosecution vide his appellate order dated 30.01.2019 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. As submitted by the learned counsel for the assessee, the notices stated to be issued by the Ld. CIT(A) fixing the appeal of the assessee for hearings on three different dates were never received by the assessee and the assessee, therefore, could not comply with the same. He has also submitted that even there was no sufficient opportunity given by the AO during the course of assessment proceedings to produce the shareholders along with the relevant documentary evidence for examination and the entire amount of share capital and share premium was treated by him

as unexplained cash credits without giving proper and sufficient opportunity of being heard to the assessee. He has submitted that the assessee is in a position to produce the said shareholders along with the necessary documentary evidence for examination before the AO in order to explain the relevant cash credits representing receipt of share capital and share premium money in terms of section 68 and urged that an opportunity may be given to the assessee by sending the matter back to the AO. Since the learned DR has also not raised any objection for sending the matter back to the AO, we 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 the assessee proper and sufficient opportunity to the assessee for producing the concerned shareholders along with the relevant documentary evidence for examination. As undertaken by the learned counsel for the assessee, the assessee shall make due compliance before the Assessing Officer and shall extend all the possible cooperation in order 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 15th March, 2019.

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

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

Dated: 15/03/2019
Biswajit, Sr. PS

Copy of order forwarded to:

1. Majority Infrastructure Pvt. Ltd., Commerce House, 7th Floor, R. No. 1, 2A, Ganesh Chandra Avenue, Kolkata – 700 013.
2. ITO, Ward 45(2), Kolkata.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Assistant Registrar / H.O.O.

ITAT, Kolkata