

आयकर अपीलिय अधीकरण, न्यायपीठ – “B” कोलकाता,  
*IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA BENCH “B” KOLKATA*

Before **Shri S.S.Godara, Judicial Member** and  
**Dr. A.L. Saini, Accountant Member**

**ITA No.2272/Kol/2017**  
Assessment Year :2012-13

Diksha Timber Pvt. Ltd. 11,Shambhu Chatterjee Street, Kolkata-007 [PAN No.AACCD 1674 L]	V/s.	DCIT, Circle-9(1), P-7, Chowringhee Square, Kolkata-700069
अपीलार्थी /Appellant	..	प्रत्यर्थी/Respondent

अपीलार्थी की ओर से/By Appellant	None
प्रत्यर्थी की ओर से/By Respondent	Shri Sital Das, Addl. CIT-SR-DR
सुनवाई की तारीख/Date of Hearing	18-04-2019
घोषणा की तारीख/Date of Pronouncement	26-04-2019

**आदेश /O R D E R**

**PER S.S.Godara, Judicial Member:-**

This assessee's appeal for assessment year 2012-13 arises against the Commissioner of Income Tax (Appeals)-16 Kolkata's order dated 04.08.2017 passed in case No.642/CIT(A)-16/Kol/2014-15/C-9(1), involving proceedings u/s 143(3) of the Income Tax Act, 1961; in short 'the Act'.

Case called twice. None appears at the assessee's behest. It is accordingly proceeded *ex parte* against the assessee.

2. It transpires at the outset that the assessee's appeal suffers from 90 days delay in filing. It has filed its condonaton petition dated 02.11.2017 stating reasons thereof to lack of communication before the auditor's office and the arguing counsel. The Revenue is in fair enough in not dispsuting correctness of these condonation averments during the course of hearing. We accordingly condone the impugned delay of 90 days as neither intentionally nor deliberate going by the preceding averments. The case is taken up for adjudication on merits.

3. The assessee's sole substantive grievance challenges correctness both the lower authorities' action holding its share capital amounting to ₹1.30 lac received from its sister concern M/s Ridhi Sidhi Vincom (P) Ltd. to be unexplained cash credits u/s 68 of the Act. The Revenue invites our attention to CIT(A)'s order under challenge and more particularly para 3 to 6 therein containing detailed discussion whilst affirming the impugned addition.

4. We find no reason to express our concurrence with the CIT(A)'s order in issue. It emerges from a perusal of the said lower appellate findings that CIT(A) has nowhere discussed the relevant facts alongwith the assessee's corresponding detailed evidence in support of its impugned share capital received from its sister concern M/s Ridhi Sidhi Vincom (P) Ltd.. We make it clear that the assessee had filed a detailed paper book in support of its explanation before the CIT(A) sec. 250(6) of the Act envisages that the CIT(A)'s points of determination followed by a detailed adjudication of all the issues raised in an assessee's appeal. Learned Departmental Representative fails to rebut this crucial fact that there is no such adjudication in lower appellate findings under challenge. We therefore restore the instant lis back to CIT(A) for afresh adjudication as per law within three effective opportunities of hearing to the taxpayer.

5. This assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced in the open court 26/04/2019

Sd/-  
(लेखा सदस्य)  
(Dr.A.L. Saini)  
(Accountant Member)  
Kolkata,  
\*Dkp, Sr.P.S

Sd/-  
(न्यायिक सदस्य)  
(S.S.Godara)  
(Judicial Member)

दिनांक:- 26/04/2019 कोलकाता ।

**आदेश की प्रतिलिपि अग्रहित / Copy of Order Forwarded to:-**

1. अपीलार्थी/Appellant-Diksha Timber Pvt. Ltd. 11, Shambbhu Chatterjee Street Kolkata-700007
2. प्रत्यर्थी/Respondent-DCIT, Cir-9(1), P-7, Chowringhee Square. Kolkata-69
3. संबंधित आयकर आयुक्त / Concerned CIT Kolkata
4. आयकर आयुक्त- अपील / CIT (A) Kolkata
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

सहायक पंजीकार  
आयकर अपीलीय अधिकरण, कोलकाता ।