

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

**I.T.A. No. 548/Kol/2019**  
Assessment Year: 2012-13

***M/s. Tilottama Holdings Pvt. Ltd.,.....Appellant***  
***P-36, Indian Exchange Place Extension,***  
***2<sup>nd</sup> Floor, Room No. 42A,***  
***Kolkata - 700 001.***  
***[PAN: AABCT 3349 K]***

***ITO, Ward - 4(1) Kolkata.....Respondent***  
***P-7, Chowringhee Square,***  
***Kolkata - 700 069.***

**Appearances by:**

*Shri Soumitra Choudhury, Advocate appearing on behalf of the Assessee.*  
*Shri Shankar Halder, Sr. DR, JCIT appearing on behalf of the Revenue.*

Date of concluding the hearing : April 12, 2019

Date of pronouncing the order : May 03, 2019

**ORDER**

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

This appeal filed by the assessee is directed against the order of Ld. CIT(A) - 16, Kolkata dated 28.02.2019 passed ex-parte.

2. The assessee in the present case is a company which filed its return of income for the year under consideration on 27.09.2012 declaring a total income at Nil. During the course of assessment proceedings, the claim of the assessee of having received share capital and share premium amount aggregating to Rs. 1,50,50,000/- was examined by the AO in terms of section 68. During the course of the said examination, notice u/s 131 was issued by the AO to the assessee requiring it to appear personally along with the Pr. Officers / Directors of all the share subscriber companies. The assessee was also required by the AO to produce the relevant documentary evidence to establish the identity and capacity of the concerned share

subscriber companies as well as to prove the genuineness of the relevant transactions. As noted by the AO in the assessment order, the assessee however failed to comply with the said requirement. The AO, therefore, proceeded to treat the share capital and share premium amount of Rs. 1,50,50,000/- as unexplained cash credit and addition to that extent was made by him to the total income of the assessee in the assessment completed u/s 143(3) vide an order dated 11.03.2015.

3. Against the order passed by the AO u/s 143(3), an appeal was preferred by the assessee before the Ld. CIT(A) 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 Ld. CIT(A) dismissed the appeal of the assessee vide his appellate order dated 28.02.2019 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. In support of the preliminary issue raised in this appeal of the assessee challenging the impugned order passed by the Ld. CIT(A) ex-parte, the learned counsel for the assessee has submitted that the appeal of the assessee was fixed for hearing by the Ld. CIT(A) only twice and that too within a period of 10 days. He has submitted that the assessee however could not appear before the Ld. CIT(A) on the said dates as the notices for hearing were never received by him. He has also submitted that even the Assessing Officer during the course of assessee proceedings

did not give proper and sufficient opportunity to the assessee to explain the relevant cash credit in the form of share capital and share premium money in terms of section 68. He has submitted that the assessee is in a position to establish the identity and capacity of the concerned subscribers as well as to prove the genuineness of the relevant transactions by producing the relevant documentary evidence and urged that the matter may be sent back to the AO for giving one more opportunity to the assessee to do so. 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 restore the matter to the file of the AO for deciding the same afresh after giving the assessee one more opportunity to explain the relevant cash credit in form of share capital and share premium amount in terms of section 68. As undertaken by the learned counsel for the assessee, the assessee shall make due compliance before the AO and shall extend all the cooperation in order to enable the AO to complete the assessment expeditiously.

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

Order Pronounced in the Open Court on 1<sup>st</sup> May, 2019.

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

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

**Dated: 03/05/2019**  
Biswajit, Sr. PS

Copy of order forwarded to:

1. M/s. Tilottama Holdings Pvt. Ltd., P-36, Indian Exchange Place Extension, 2<sup>nd</sup> Floor, Room No. 42A, Kolkata – 700 001.
2. ITO, Ward – 4(1), Kolkata.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

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