

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH : KOLKATA

[Before Hon'ble Shri S.S. Godara, JM & Hon'ble Shri Dr. Arjun Lal Saini, AM]

I.T. A No. 582/Kol/2018 A.Y 2012-13

M/s. Overtop Towers Pvt. Ltd.
PAN: AABCO 6251F
(Appellant)

Vs.

I.T.O., Ward 9(2), Kolkata
(Respondent)

For the Appellant : None appeared

For the Respondent : Shri A.K. Singh, CIT, Id.DR

Date of Hearing : 29-04-2019

Date of Pronouncement: 10-05-2019

ORDER

Shri S.S. Godara, JM:

1. This Assessee's appeal for assessment year 2012-13 arises against the CIT(A), 18, Kolkata's order dated 05-02-2018 passed in case no. ITA No. 1062/2015-16(CIT(A)-18/Wd-9(2)/F.SL No.2214/17-18/Kol involving proceedings u/s 143(3) of the I.T Act, 1961 (in short 'Act').

Heard learned Departmental Representative. Case file perused.

2. None appears at the assessee's behest. The Registry has already sent a RPAD (Registered Post/AD) notice to the assessee. It is accordingly proceeded *ex parte*.

3. Shri A.K. Singh, CIT, Id.DR vehemently contends during the course of hearing that both the lower authorities have rightly treated the assessee's share application/premium of Rs. 25,76,40,000/- as unexplained cash credits liability to be added u/s. 68 of the Act.

4. We find from a perusal of the case file that Assessing Officer sought to verify the identity, genuineness and creditworthiness of assessee's share applicants. He held in his assessment order dated 26-03-2015 that the assessee had failed to prove all the three ingredients in its share application/premium hereinabove. All this made by the Assessing Officer to treat the said sum as unexplained cash credits.

5. The assessee preferred appeal before the CIT(A). He has dismissed the same on account of assessee's failure in putting in appearance despite that various notices dated 22-12-17 and 11-01-18 stood issued along with e-mail through I.T.B.A on line system and PAN registered address. Revenue strongly supports the impugned addition made in both the lower authority proceedings.

6. We have given our thoughtful consideration to assessee's pleadings and both the lower authorities' findings making unexplained cash credits addition. It transpires from a perusal of assessee's statement filed before the CIT(A) that it had placed on record at least some of the details in furtherance to Assessing Officer's show cause notices. It would file relevant shareholders' details coupled with few of the relevant particulars during the course of scrutiny. The same have neither been dealt with in assessment order nor in qua lower appellate order. The fact also remains that assessee is very fair in admitting the fact that it could not appear before the CIT(A) on 11-01-2018 due to unintentional inadvertence and no specific reason of such unintentional inadvertence is given in its sole substantive ground. All this leads us to conclusion that the assessee itself did not appear before the CIT(A) despite having received notice of hearing. We take into account all these facts to deem it, appropriate to restore the instant issue(s) back to the CIT(A) for fresh adjudication on merits as per law within three effective hearings subject to payment of Rs.20,000/- as costs. We order accordingly.

7. This Assessee's appeal is allowed for statistical purpose in above terms.

Order pronounced in the Court on 10-05-2019

Sd/-

[Dr. Arjun Lal Saini]
Accountant Member

Sd/-

[S.S.Godara]
Judicial Member

Dated : 10 -05-2019

****PRADIP, Sr. PS**

Copy of the order forwarded to:

1. Appellant/Assessee: M/s. Overtop Towers Private Limited 4B, Nalini Seth Road, Kolkata-7.
2. Respondent/Department: Income Tax Officer, Ward 9(2), P-7 Chowringhee Square, Kolkata-69.
- 3..C.I.T(A).- 4. C.I.T.- Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By Order

Assistant Registrar
H.O.O/D.D.O Kolkata