

आयकर अपीलीय अधीकरण, न्यायपीठ – “D” कोलकाता,
IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH “D” KOLKATA

Before **Shri J.Sudhakar Reddy, Accountant Member** and
Shri S.S.Godara, Judicial Member

ITA No.2135/Kol/2017
Assessment Years: 2012-13

| | | |
|---|---------------------------------|--|
| M/s Dewdrop Enclave (P) Ltd. Trinity Towrs,s 6 th Floor, 86, Topsia aRoad, Kolkata-700046 [PAN No.AAKCS 8698 H] | बनाम / V/s. | Income Tax Officer, Ward-10(1), Aayakar Bhawan, R. No.3/78, P- &,Chowringhee Square, Kolkataa-69 |
| अपीलार्थी /Appellant | .. | प्रत्यर्थी /Respondent |

| | |
|--------------------------------------|----------------------------------|
| अपीलार्थी की ओर से/By Appellant | Shri Smt. Arti Devnath, Advocate |
| प्रत्यर्थी की ओर से/By Respondent | Shri Shankar Halder, JCIT-SR-DR |
| सुनवाई की तारीख/Date of Hearing | 19-02-2019 |
| घोषणा की तारीख/Date of Pronouncement | 15-05-2019 |

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 15.09.2017 passed in case No.966/CIT(A)-16/Kol/W.10(1)/2015-16, involving proceedings u/s 143(3) of the Income Tax Act, 1961; in short ‘the Act’.

Heard both the parties. Case file(s) perused.

2. The assessee’s sole substantive grounds raised in the instant appeal seeks to reverse both the lower authorities action treating its share application /premium of ₹1.76 crores as unexplained cash credits u/s. 68 of the Act. It transpires at the outset that the CIT(A) has passed his lower appellate order ex parte whilst confirming the Assessing Officer’s action making the impugned addition without dealing with the

relevant facts and details in light of u/s 250(6) of the Act requiring formulation of points of determination followed by a detailed adjudication. His lower appellate order suggests that there is not even an indication as to whether the assessee had been actually served the relevant notice of hearing or not. We proceed further to notice that the factual position is no different in the assessment order as well as wherein the assessee appears to have filed its documentary evidence in support of the impugned share application / premium in issue. The Assessing Officer had issued u/s 131 notice(s) to the assessee for verification of the relevant factual aspects on the issue which stood non-complied at the taxpayer's end. We observe in these peculiar facts that the sole issue involved herein needs to be restored back to the Assessing Officer for verification of all necessary facts for the purpose of genuineness / creditworthiness of the share application / money in issue. We therefore direct the assessee itself to appear before the Assessing Officer along with a copy of our instant order and correct address on or before **13.07.2019** for further consequential proceedings.

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

Order pronounced in open court on 15/05/2019

Sd/-
(लेखा सदस्य)
(J.Sudhakar Reddy)
Accountant Member
*Dkp-Sr.PS

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

दिनांक:- 15/05/2019 कोलकाता / Kolkata

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. अपीलार्थी/Appellant-M/s Dewdrop Enclave (P) Ltd. Trinity Towers, 6th Floor 86, Topsia Road, Kolkata-46
2. प्रत्यर्थी/Respondent-ITO Wd-10(1), Aaykar Bhawan, R.No.3/78, P-7, Chowringhee Square, Kolkata-69
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
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 ।