

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

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

**ITA No.2133/Kol/2017**  
Assessment Year :2009-10

Samriddhi Tradlink Pvt. Ltd., P-18, Dobson Lane, 7 <sup>th</sup> Floor, Madhusudan Apartment, Howrah- 711101 <b>[PAN No.AAMCS 0260 R]</b>	<b>V/s.</b>	Income Tax Officer, Ward-13(4), Kolkata
अपीलार्थी /Appellant	..	प्रत्यर्थी/Respondent

अपीलार्थी की ओर से/By Appellant	Shri A.K. Gupta, FCA
प्रत्यर्थी की ओर से/By Respondent	Shri Shankar Halder, JCIT-SR-DR
सुनवाई की तारीख/Date of Hearing	21-02-2019
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 2009-10 arises against the Commissioner of Income Tax (Appeals)-5, Kolkata's order dated 23.02.2017 passed in case No.83/CIT(A)-5/Wd.-13(4)/16-17, involving proceedings u/s 144 r.w.s 263 of the Income Tax Act, 1961; in short 'the Act'.

Heard both the parties. Case file perused.

2. The assessee's sole substantive grievance canvass instant appeal challenges the correctness of both the lower authorities action treating its share application / premium of ₹16,12,08,980/- u/s 68 of the Act. Case file suggests that the Assessing Officer had framed the assessment / re-

assessment on 04.06.2012 not making any addition or disallowance under the instant issue. The PCIT thereafter exercised his revision jurisdiction vested u/s 263 of the Act on 20.03.2015 directing the Assessing Officer to examine identity genuineness and creditworthiness alongwith source of realization from the liquidation of assets in the balance-sheet after the changes of directors, if any, so far as the above stated share capital is concerned.

3. The Assessing Officer took up consequential proceedings. He appears to have issued sec. 131 notice, 133(6) process and other show-cause notice(s) as well to verify the above aspects relating to assessee's share application money. He concluded in his assessment order dated 22.02.2016 that the assessee had failed to appear in compliance of PCIT's directions. All this made into treat the impugned share application money of ₹16,12,08,980/- as unexplained cash credits. The CIT(A) has confirmed the same in his lower appellate order *ex parte* after observing that the relevant notice of hearing could not be served on the assessee.

4. We have given our thoughtful consideration to rival contentions against and in support of the impugned addition of unexplained cash credits relating to assessee's share application money of ₹16,12,08,980/-. A perusal of the case file suggests that both the Assessing Officer as well as the CIT(A) have not complied with the PCIT's revision directions to examine genuineness and source of assessee's share capital in respect of each and every shareholders by conducting independent inquiry not through the taxpayer itself. Learned Departmental Representative fails to dispute this clinching fact during the course of hearing. It further emerges that the CIT(A) has also not even dealt with the assessee's details on record in support of its share application money as stipulated u/s 250(6) of the Act requiring formulation of points determination followed by a detailed adjudication. We therefore conclude in this peculiar factual backdrop of fact that Assessing Officer needs to re-do the

entire exercise afresh in light of PCIT's revision directions after affording adequate opportunity of hearing to the taxpayer.

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

Order pronounced in the open court 15/05/2019

Sd/-

(लेखा सदस्य)

(Dr.A.L. Saini)

(Accountant Member)

Kolkata,

\*Dkp, Sr.P.S

दिनांक:- 15/05/2019 कोलकाता ।

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

1. अपीलार्थी/Appellant-Samriddhi Tradeelink Pvt. Ltd. P-18, Dobsosn Lane, 7<sup>th</sup> Floor, Madhusudan Apartment, Howrah-711101
2. प्रत्यर्थी/Respondent-Income Tax Officer ward-13(4), Kolkata
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 ।