

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

**I.T.A. No. 2526/Kol/2019**

Assessment Year: 2014-15

***M/s. Vinayak Infosoft Pvt. Ltd.....Appellant***  
***Room No. 1, 2<sup>nd</sup> Floor, 3 Wood Street, Govind Mahal,***  
***Kolkata - 700 016.***  
***[PAN: AACCV 4563 C]***

***Vs***

***ITO, Ward 6(1), Kolkata.....Respondent***  
***P-7, Chowringhee Square,***  
***Kolkata - 700 069.***

**Appearances by:**

*Shri Miraj D Shah, AR appearing on behalf of the Assessee.*

*Smt. Ranu Biswas, Addl. CIT, DR appearing on behalf of the Revenue.*

Date of concluding the hearing : December 06, 2019

Date of pronouncing the order : December 06, 2019

**ORDER**

**PER P.M. JAGTAP, VICE-PRESIDENT (KZ & HZ)**

This appeal filed by the assessee is directed against the order of Ld. CIT(A) - 2, Kolkata dated 22.11.2019 whereby he dismissed the appeal of the assessee ex-parte.

2. The assessee in the present case is a company which filed its return of income for the year under consideration on 27.09.2014 declaring total income at Nil. During the course of assessment proceedings, the assessee company could not provide any information about the share capital and share premium aggregating to Rs. 1,23,21,500/- received during the year under consideration. Keeping in view this non-compliance on the part of the assessee, the AO proceeded to complete the assessment of the assessee ex-parte to the best of his judgement on the basis of material available on record. In the assessment so completed u/s 144 vide an order dated 29.08.2016, the entire share capital and share premium aggregating

to Rs. 1,23,21,500/- was treated by the AO as unexplained cash credit and addition to that extent was made by him to the total income of the assessee u/s 68 of the Act.

3. Against the order passed by the AO u/s 143(3), an appeal was preferred by the Ld. CIT(A) and since there was no satisfactory 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 22.11.2019 passed ex-parte. Aggrieved by the order of the ld. CIT(A), the assessee has preferred this before the Tribunal.

4. We have heard the arguments of both the sides and also perused the relevant material available on record. The learned counsel for the assessee has submitted that adjournments were sought by the assessee in writing on the hearings fixed by the Ld. CIT(A) on 08.08.2017, 30.08.2017 and 05.09.2018. He has submitted that the appeal of the assessee thereafter was fixed for hearing by the Ld. CIT(A) on 21.11.2019 and since the notice of the said hearing was not received by the assessee, it could not be complied with. He has contended that the Ld. CIT(A) however did not give any further opportunity to the assessee and proceeded to dismiss of the appeal of the assessee vide his impugned order passed ex-parte. He has contended that the assessee thus was not given proper and sufficient opportunity of being heard and there is a clear violation of principle of natural justice. He has also contended that even the AO during the course of assessment proceedings failed to give proper and sufficient opportunity to the assessee to explain the relevant cash credit

representing share capital and share premium amounts in terms of section 68 and proceeded to add the said amount to the total income of the assessee by treating the same as unexplained cash credit. He has submitted that the assessee is in a position to produce all the details and documents in order to establish the identity and capacity of the concerned share subscribers as well as the genuineness of the relevant transactions and urged that one more opportunity may be given to the assessee to do so by sending the matter back to the AO. Since the Id. DR has also not raised any objection for sending the matter back to the AO for proper verification / examination, we set aside the impugned order passed by the Id. CIT(A) ex-parte and restore the matter to the file of the AO for deciding the same afresh after giving the assessee proper and sufficient opportunity to produce the relevant details and documents in order to explain the relevant cash credits representing share capital and share premium amounts in terms of section 68. As undertaken by the learned counsel for the assessee, the assessee shall make due compliance before the Assessing Officer and 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 treated as allowed for statistical purpose.**

Order Pronounced in the Open Court on 6<sup>th</sup> December, 2019.

Sd/-  
(S.S. GODARA)  
JUDICIAL MEMBER

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

**Dated: 06/12/2019**

Biswajit, Sr. PS

Copy of order forwarded to:

1. M/s. Vinayak Infosoft Pvt. Ltd., Room No. 1, 2<sup>nd</sup> Floor, 3 Wood Street, Govind Mahal, Kolkata – 700 016.
2. ITO, Ward – 6(1), Kolkata.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

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