

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

I.T.A. No. 2536/Kol/2019
Assessment Year: 2012-13

M/s. Sanjeev Trade & Holdings Pvt. Ltd.....Appellant
06, Millers Tank Bund Road,
Shivaji Nagar,
Bangalore - 560062.
[PAN: AADCS 7716 F]

Vs

ITO, Ward 3(3), Kolkata.....Respondent
P-7, Chowringhee Square,
Kolkata - 700 069.

Appearances by:

Shri S.M. Surana, Advocate appearing on behalf of the Assessee.
Shri Jayanta Khanra, JCIT appearing on behalf of the Revenue.

Date of concluding the hearing : December 13, 2019

Date of pronouncing the order : December 13, 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) - 17, Kolkata dated 01.11.2019 passed ex-parte whereby he dismissed the appeal of the assessee.

2. The assessee in the present case is a company which filed its return of income for the year under consideration declaring a total income of Rs. 10,49,545/-. During the course of assessment proceedings, notice u/s 131 was issued by the AO to the assessee requiring it to appear personally along with all the share holders who had subscribed to the shares of the assessee-company together with premium aggregating to Rs. 5,65,00,000/-. The assessee company was also required by the AO to ensure that the share subscribers would appear before him along with the relevant documentary evidence to

establish their identity and creditworthiness as well as the genuineness of the relevant transactions. As noted by the AO in the assessment order, the assessee company however failed to comply with these requirements in spite of giving sufficient opportunity. He, therefore, treated the share capital and share premium amount aggregating to Rs. 5,65,00,000/- as unexplained cash credits and addition to that extent was made by him u/s 68 in the assessment completed u/s 143(3) vide an order dated 27.03.2015.

3. Against the order passed by the AO u/s 143(3), the appeal was preferred by the assessee before the Ld. CIT(A) and since there was no satisfactory compliance on the part of the assessee company 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 01.11.2019 passed ex-parte thereby confirming the addition of Rs. 5,65,00,000/- made by the AO u/s 68. 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. The ld. Counsel for the assessee has invited our attention to a copy of letter dated 12.09.2018 filed in the office of the Ld. CIT(A) on 13.09.2018 intimating the change of address. He has submitted that the Ld. CIT(A) however issued the notices of hearings fixed on 20.03.2019, 27.09.2019 and 17.10.2019 to the old address and since the same were not received by the assessee, the assessee could not comply

with the same. He has further submitted that notices u/s 133(6) of the Act were also issued by the AO to all the share subscribers during the course of assessment proceedings and in response to the same, all the share holders had duly submitted the relevant details and documents required by the AO. In support of this contention, he has also placed on record the copies of letters submitted by the concerned share holders during the course of assessment proceedings with the rubber stamp acknowledging the receipt of the same by the office of the Assessing Officer. He has contended that the Assessing Officer however did not take cognisance of this relevant details and documents and proceeded to treat the share capital and share premium amount aggregating to Rs. 5.65 crores as unexplained cash credit in an arbitrary manner. He has urged that this matter may, therefore, be sent back to the AO for considering the same afresh after taking into consideration the said details and documents furnished by the share holders and after giving the assessee proper and sufficient opportunity of being heard. Keeping in view all the facts and circumstances of the case, we are inclined to accept the request of the Id. Counsel for the assessee. Even the Id. DR has not raised any objection for sending the matter back to the AO for proper consideration. The impugned order passed by the Id. CIT(A) ex-parte is accordingly set aside and the matter is restored to the file of the AO for deciding the same afresh after taking into consideration the relevant details and documents filed by the concerned share holders and after giving the assessee proper and sufficient opportunity of being heard.

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

Order Pronounced in the Open Court on 13th December, 2019.

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

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

Dated: 13/12/2019
Biswajit, Sr. PS

Copy of order forwarded to:

1. M/s. Sanjeev Trade & Holdings Pvt. Ltd., 06 Millers Tank Bund Road, Shiovaji Nagar, Bangalore – 560062.
2. ITO, Ward – 3(3), Kolkata.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

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