

ITA No. 2402/KOL/2019  
Assessment Year: 2015-2016  
Shri Alope Kumar Ghosh  
&  
ITA No. 2403/KOL/2019  
Assessment Year: 2015-2016  
Shri Partha Sarathi Mondal

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
KOLKATA 'SMC' BENCH, KOLKATA**

**Before Shri Satbeer Singh Godara, Judicial Member**

**I.T.A. No. 2402/KOL/2019  
Assessment Year: 2015-2016**

**Shri Alope Kumar Ghosh,.....Appellant**  
**C/o. M/s. Salarpuria Jajodia & Co., 3<sup>rd</sup> Floor,**  
**7, Chittaranjan Avenue, Kolkata-700072**  
**[PAN:AGGPG2782D]**

**-Vs.-**

**Assistant Commissioner of Income Tax,.....Respondent**  
**Circle-38, Midnapore,**  
**M-15, Bidhan Nagar,**  
**Paschim Midnapore-721101**

**&**

**I.T.A. No. 2403/KOL/2019  
Assessment Year: 2015-2016**

**Shri Partha Sarathi Mondal,.....Appellant**  
**C/o. M/s. Salarpuria Jajodia & Co., 3<sup>rd</sup> Floor,**  
**7, Chittaranjan Avenue, Kolkata-700072**  
**[PAN:ADQRM0319R]**

**-Vs.-**

**Assistant Commissioner of Income Tax,.....Respondent**  
**Circle-38, Midnapore,**  
**Baijayanti Apartment, Rabindra Nagar,**  
**Paschim Midnapore-721101**

**Appearances by:**

*Shri S. Jhajharia, Advocate, for the Appellants*  
*Smt. Ranu Biswas, Addl. CIT, Sr. D.R., for the Respondent*

Date of concluding the hearing : January 27, 2020

Date of pronouncing the order : January 31, 2020

**O R D E R**

These two assessee's appeals for same assessment year 2015-16 arise against the learned Commissioner of Income Tax (Appeals)-11, Kolkata's separate orders; both dated 31.07.2019, passed in case Nos.

CIT(A),Kolkata-11/10193/2017-18 and No. CIT(A),Kolkata-11/10199/2017-18, upholding the Assessing Officer's identical action making section 2(22)(e) deemed dividend addition(s) of Rs.18,18,883/- and Rs.18,18,283/-; respectively involving proceedings under section 143(3) of the Income Tax Act, 1961; in short 'the Act'.

Heard Shri S. Jhaharia, Advocate representing assesseees as well as Smt. Ranu Biswas, Addl. CIT/ Sr. D.R. appearing at the Revenue's behest. Case files perused.

2. It transpires from the case records during the course of hearing that the relevant factual matrix in both these appeals is identical. These two assesseees namely Shri Alope Kumar Ghosh and Shri Partha Sarathi Mondal are directors in a company namely M/s. Spandan Advance Medicare Pvt. Limited holding its 16% share each. The Assessing Officer framed the assessments in both these assesseees cases making the impugned section 2(22)(e) deemed dividend addition(s) after noticing the fact that the above stated company had purchased land(s) in their names and got them registered as their personal holdings. This made the Assessing Officer to treat the sums involved in land transaction as deemed dividend income as upheld in the identical lower authorities discussion.

3. Both parties reiterated their respective stands during the course of hearing. Smt. Biswas strongly supported the CIT(A)'s action upholding the identical deemed dividend addition(s) in the facts and circumstances of these two cases. I find no merit in Revenue's stand invoking section 2(22)(e) deemed deduction of dividend under challenge. The fact remains that although the company hereinabove has paid for purchasing land(s) in these two assesseees/directors' names having 16% shares, the said lands

form part of company's balance-sheet only as its assets than that of these two assesseees. The said company's resolution(s) to this effect also indicates that these directors would not enjoy any right in the land. Smt. Biswas at this stage sought to justify the lower authorities' action that if these two assesseees/directors sell the land in future, that sum would indeed be in the nature of deemed dividends only. I find no substance in the instant last argument as well as the land in question purchased in these two directors names cannot be taken as a "payment" *per se* as well. I, therefore, direct the Assessing Officer to delete the impugned addition(s) made in these two assesseees' cases.

No other argument has been raised during the course of hearing.

4. In the result, these assesseees appeals are allowed.

A copy of the instant common order be placed in the respective case file.

Order pronounced in the open Court on January 31, 2020.

**Sd/-**  
**(Satbeer Singh Godara)**  
**Judicial Member**

***Kolkata, the 31<sup>st</sup> day of January, 2020***

- Copies to :*
- (1) Shri Alope Kumar Ghosh,  
C/o. M/s. Salarpuria Jajodia & Co., 3<sup>rd</sup> Floor,  
7, Chittaranjan Avenue, Kolkata-700072**
  - (2) Shri Partha Sarathi Mondal,  
C/o. M/s. Salarpuria Jajodia & Co., 3<sup>rd</sup> Floor,  
7, Chittaranjan Avenue, Kolkata-700072**
  - (3) Assistant Commissioner of Income Tax,  
Circle-38, Midnapore,  
M-15, Bidhan Nagar, Paschim Midnapore-721101**
  - (4) Assistant Commissioner of Income Tax,  
Circle-38, Midnapore,**

ITA No. 2402/KOL/2019  
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Shri Partha Sarathi Mondal

***Baijayanti Apartment, Rabindra Nagar,  
Paschim Midnapore-721101***

- (5) *Commissioner of Income Tax (Appeals) -11, Kolkata;*
- (6) *Commissioner of Income Tax- , Kolkata*
- (7) *The Departmental Representative*
- (8) *Guard File*

*By order*

*Assistant Registrar,  
Income Tax Appellate Tribunal,  
Kolkata Benches, Kolkata*

***Laha/Sr. P.S.***