

*IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA BENCH "D" KOLKATA*

Before **Shri P.M.Jagtap, Vice-President** and  
**Shri S.S.Godara, Judicial Member**

**ITA No.324/Kol/2019**  
Assessment Year: 2012-13

M/s Abhiyan developers Pvt. Ltd., 72/4, Shambhu Nath Pandit Street, Kolkata-700 025 [PAN No.AAGCA 2974 A]	बनाम / V/s.	Income Tax Officer, Ward-10(2), Aayakar Bhawan, P-7, Chowringhee Square, Kolkata-700 069
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	Shri Ravi Tulsian, FCA
प्रत्यर्थी की ओर से/By Respondent	Shri Dhrubojyoti Roy, JCIT-DR
सुनवाई की तारीख/Date of Hearing	11-06-2020
घोषणा की तारीख/Date of Pronouncement	24-06-2020

**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)-15, Kolkata's order dated 13.12.2018, passed in case No. 132/CIT(A)-15/16-17/Wd.10(2)/R&T/Kol u/s 143(3) of the Income Tax Act, 1961; in short 'the Act'.

Heard both the parties. Case file perused.

2. Case file suggests that the CIT(A) has passed his lower appellate order *ex parte* whilst affirming the Assessing Officer's action treating the assessee's share capital / premium of ₹3,82,20,000/- as unexplained cash credits. He holds in **para-4.1 page-9** of the lower appellate order that the assessee's first appeal

had been fixed for hearing on 19.03.2018, 14.09.2018, 25.10.2018, 22.11.2018 and 13.12.2018 and it failed to appear despite having been afforded said numerous opportunities. Learned counsel's case on the other hand is that assessee had filed its written submissions before CIT(A) on the last date i.e. 13.12.2018 explaining identity, genuineness and creditworthiness of the four investor party(ies) namely M/s Mohan Management Ltd, Rameshwar Consultants Ltd., Sri Siromani Dealers Pvt. Ltd., and Shyam Sundar Choudhary which have nowhere been considered in the lower appellate discussion. We find that the assessee's written submission(s) contained the supportive evidence as well which formed part of assessment records. The Assessing Officer's corresponding assessment framed on 20.03.2015 has also not considered the same. All these clinching facts have gone unrebutted from the Revenue side.

3. After giving our thoughtful consideration to rival submissions against and in support of the impugned unexplained cash credits addition, we are of the view that same deserves to be restored back to the Assessing Officer since the relevant evidence has not been considered in either of the lower proceedings. We order accordingly. The Assessing Officer is directed to examine the assessee's case afresh as per law.

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

Order pronounced in open court on 24/06/2020

Sd/-  
(उपाध्यक्ष)  
(P.M.Jagtap)  
Vice President

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

\*Dkp-Sr.PS

दिनांक:- 24/06/2020

कोलकाता / Kolkata

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

1. अपीलार्थी/Appellant-Whitestone Suppliers Pvt. Ltd., SKP House, 132A, S.P.  
Mukherjee Road, Kolkata-700 026
2. प्रत्यर्थी/Respondent-ITO Wd-10(2), Aayakar Bhawan, P-7, Chowringhee  
Square, Kolkata-700 069
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 ।