

*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.358/Kol/2019
Assessment Year: 2013-14

Whitestone Suppliers Pvt. Ltd., SKP House, 132A, S.P.Mukherjee Road, Kolkata-700 026 [PAN No.AAACW 2202 M]	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 Imokaba Jamir, , CIT-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 2013-14 arises against the Commissioner of Income Tax (Appeals)-4, Kolkata's order dated 31.12.2018, passed in case No. 06/CIT(A)-4/2015-16/ u/s 144 of the Income Tax Act, 1961; in short 'the Act'.

Heard both the parties. Case file perused.

2. It transpires at the outset during the course of hearing that the CIT(A)'s lower appellate order affirming the Assessing Officer's action treating the assessee's share capital / premium of ₹30,27,70,272/-; has been passed *ex parte* after observing that it choose not to appear. Learned counsel's case is that although the assessee had filed all the relevant details pertaining to the corresponding investor party(ies) having

subscribed of its share capital / premium, the same have nowhere been dealt with either in the course of assessment or in lower appellate discussion. He then took us to the CIT(A)'s order not indicating the actual service of notice. And also that the CIT(A) has not adjudicated upon merits of the issue as required u/s. 250(6) of the Act. The Revenue fails to rebut this clinching factual provision. We therefore deem it appropriate to restore the above sole issue back to the Assessing Officer keeping in mind the fact that he had nowhere considered the assessee's detailed evidence in his earlier round of assessment. We order accordingly.

3. 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 ।