

IN THE INCOME TAX APPELLATE TRIBUNAL "D"

(Virtual Court Hearing), BENCH KOLKATA

BEFORE SHRI P.M. JAGTAP, V.P & SHRI S. S. GODARA, JM

आयकर अपीलसं./I.T.A No.450/Kol/2019

(निर्धारण वर्ष / Assessment Year: 2010-11)

M/s Larigo Investment Pvt. Ltd. 1 Crooked Lane, Esplanade, Kolkata-700069. W.B	Vs.	ITO, Ward-3(1), Kolkata
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAACL4319C		
(Appellant)	..	(Respondent)

Appellant by : Shri Shikha Agarwal, A/R

Respondent by : Shri Supriyo Pal, JCIT

सुनवाईकीतारीख/ Date of Hearing : 08/06/2020

घोषणाकीतारीख/Date of Pronouncement : 10/07/2020

आदेश / O R D E R

Per Shri S. S. Godara:

This assessee's appeal for assessment year 2010-11 arises against the Commissioner of Income Tax (A) - 12, Kolkata dated 17.01.2018 passed in Case No.10216/CIT(A)-12/W-3(1)/Kol/2017-18 involving proceedings u/s 143(3) of the Income Tax Act, 1961; in short 'the Act'.

Heard both the parties. Case file perused.

2. It transpires at the outset that the CIT(A)'s lower appellate order under challenge has been passed ex parte affirming the Assessing Officer's action initiating section 148/147 proceedings thereby treating the assessee's share capital/premium of Rs.65,00,000/- as lacking genuineness/creditworthiness.

3. Learned departmental representative invited our attention to the CIT(A)'s opening page indicating to have provided six opportunities on 24.09.2018, 04.10.2018, 25.10.2018, 14.11.2018, 28.11.2018 and 03.01.2019; respectively. His case therefore is that the assessee never appeared on any of the said dates.

4. The taxpayer's case, on the other hand, is that there is no even a whisper in the CIT(A)'s order indicating actual service in either of the six hearings during the course of lower appellate proceedings. And that the CIT(A)'s order has nowhere taken into consideration the relevant factual and legal issues seeking to delete the impugned section 68 addition of unexplained cash credit as well as challenging validity of section 148/147 proceedings. This clinching aspect has gone unrebutted from the Revenue side. We therefore are of the view that the assessee deserves one more innings before the CIT(A). We order accordingly.

5. This assessee's appeal is accepted for statistical purposes in above terms.

Order is pronounced in the open court on 10.07.2020.

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

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

कोलकाता /Kolkata;

दिनांक/ Date:10/07/2020

RS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. The Appellant- M/s Larigo Investment Pvt. Ltd.
2. The Respondent- ITO, Ward-3(1), Kolkata
3. आयकरआयुक्त(अपील) / The CIT(A), Kolkata [sent through email]
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, कोलकाता/ DR, ITAT, Kolkata [sent through email]
6. गार्डफाईल / Guard file.
सत्यापितप्रति

True Copy

By Order

Assistant Registrar,
I.T.A.T, Kolkata Benches,
Kolkata.