

आयकर अपीलीय अधीकरण, न्यायपीठ – “डि” कोलकाता,
*IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH “D Virtual Court” KOLKATA*

Before **Shri J.Sudhakar Reddy, Accountant Member** and
Shri S.S.Godara, Judicial Member

ITA No.659 & 2497/Kol/2019
Assessment Year: 2012-13

Nice Commodities (P) Ltd., C/o Subash Agarwal & Associates, Advocates Siddha Gibson, 1, Gibson Lane, Suite 213, 2 nd Floor, Kolkata-700 069 [PAN No.AAACN 9793 N]	बनाम / V/s.	Income Tax Officer Ward- 1(2), Aayakar Bhawan, P- 7, Chowringhee Square, Kolkata-700 069
M/s RSV Ispat Pvt. Ltd., 135J NSC Bose Road, Tollygunge, Kolkata-040 [PAN No.AAFCR 0832 H]	बनाम / V/s.	Income Tax Officer Ward- 12(3), Aayakar Bhawan, P-7, Chowringhee Square, Kolkata-700 069
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

आवेदक की ओर से/By Assessee	Shri Subash Agarwal, Advocate & Shri Sunil Surana, Advocate
राजस्व की ओर से/By Respondent	Shri Jayanta Khanra, JCIT, SR-DR
सुनवाई की तारीख/Date of Hearing	17-06-2020
घोषणा की तारीख/Date of Pronouncement	22-07-2020

आदेश /O R D E R

PER S.S.Godara, Judicial Member:-

These two assessee's appeal(s) for assessment year 2012-13 arise against the Commissioner of Income Tax (Appeals)-17 & 4, Kolkata's separate orders dated 07.02.2019 and 27.03.2019 passed in case Nos.254/CIT(A)-17/Kol/17-18 & 882/

CIT(A)-4/15-16 involving proceedings u/s143(3) r.w.s. 144 of the Income Tax Act, 1961; in short 'the Act'.

Heard Shri Subash Agarwal and Shri Sunil Surana learned representatives and Shri Jayanta Khanra, JCIT appearing at the Revenue's behest. Case file(s) perused.

2. It appears at the outset that the CIT(A)'s order(s) under challenge in both these cases have affirmed the Assessing Officer's identical action treating the assessee's share application / premium amount(s) of ₹1,01,50,000/- and ₹3,16,00,000/-; respectively as unexplained cash credits u/s 68 of the Act after alleging lack of genuineness and creditworthiness thereof. A perusal of the CIT(A)'s order(s) indicates that there had not any actual service of notice(s) of hearing to either of the two assessee's. And also that although they had filed detailed documentary evidence during the course of corresponding scrutiny assessment(s), the same had nowhere been considered by either of the two Assessing Officer(s). We therefore are of the view that the instant identical issue of the assessee's share application / premium requires afresh factual verification at the Assessing Officers' end. We order accordingly. The assessee is also directed to discharge their onus within three effective opportunities of hearing in consequential proceedings before the respective Assessing Officers.

3. These two assessee's appeals are allowed for statistical purposes in above terms. ***A copy of the instant common order be placed in the respective case files.***

Order pronounced in open court on 22/07/2020

Sd/-
(लेखा सदस्य)
(J.Sudhakar Reddy)
Accountant Member

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

*Dkp-Sr.PS

दिनांक:- 22/07/2020

कोलकाता / Kolkata

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

1. आवेदक /Assessee-Nice Commodities (P) Ltd., C/o Subash Agarwal & Associates,
Advocates Siddha Gibson, 1, Gibson Lane, Suite No.213, 2nd
Floor, Kolkata-69 / M/s RSV Ispat Pvt. Ltd., 135J NSC Bose
Road, Tollygunge, Kolkata-700 040
2. राजस्व /Revenue-Income Tax Officer, Ward-1(2) /12(3), Aayakar Bhawan, P-7,
Chowringhee Square, Kolkata-69
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 ।