

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'B', KOLKATA
[Before Shri P. M. Jagtap, Hon'ble Vice President &
Smt. Madhumita Roy, Hon'ble Judicial Member]

[Through Virtual Court]

ITA No. 1194/Kol/2018
Assessment Year: 2012-13

Dhanrashi Vintrade Pvt. Ltd......*Appellant*
Room No. 307, 3rd Floor, 56, Clive Square,
34, Idra Kumar Karnani Street,
Kolkata - 700 012.
[PAN : AADCD 7192 E]

ITO, Ward 6(1), Kolkata.....*Respondent*
P-7, Chowringhee Square,
Kolkata - 700 069.

Appearances by:

Shri Miraj D Shah, Advocate appearing on behalf of the Assessee
Smt. Ranu Biswas, Addl. CIT, appearing on behalf of the Revenue

Date of concluding the hearing : August 03, 2020

Date of pronouncing the order : August 12, 2020

ORDER

PER MADHUMITA ROY, JM

The instant appeal at the instance of the assessee is directed against the order dated 27.03.2018 passed by the Ld. CIT(A)- 7, Kolkata arising out of the order dated 16.03.2015 passed by the ITO Ward 6(1), Kolkata u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for A.Y. 2012-13.

2. During the course of assessment proceedings, it was found that the assessee company for the A.Y. 2012-13 issued its shares to primarily different private limited companies against high premium. Summons u/s 131 of the Act though were send to the directors of investing companies, none appeared. Ultimately, the ld. AO on the basis of records available before him finalised the assessment upon

making addition of Rs. 1,87,89,230/- which was, in turn, confirmed by the Ld. CIT(A) though by an ex-parte order.

3. At the time of hearing of the instant appeal, the Learned Counsel appearing for the assessee submitted before us that the notice of hearing though issued the same was returned by the postal authority with the remarks "insufficient address returned to sender". Subsequent notices were again returned by the postal authority with the remark "not known". However, the Learned Counsel undertakes to produce the directors of those companies before the Ld. AO and, therefore, prays for a direction for setting aside the issue to the file of the Ld. AO to re-adjudicate the issue upon considering the presence of the directors and the further records to be made available before him, if required.

4. On the other hand, the Ld. DR appearing for the Revenue submitted that the assessee has not been able to give any satisfactory compliance on the part of the concerned share subscribers and ultimately having no other alternative the ex-parte order was passed confirming the addition made by the Ld. AO.

5. We have heard the rival submissions made by the respective parties and we have also perused the relevant materials available on record including the orders passed by the Co-ordinate Bench in ITA No. 570/Kol/2018 in the matter of Vriddhi Power Pvt. Ltd. vs ITO on the identical issue as submitted by the ld. AR.

We have further considered the judgment passed by the Coordinate Bench in the matter of Vriddhi Power Pvt. Ltd. vs ITO in

ITA No. 570/Kol/2018. We find in the identical situation the Coordinate Bench has been pleased to pass order directing the Id. A.O to adjudicate the matter afresh by providing a further opportunity of being heard to the assessee.

6. We, therefore, taking into consideration the entire aspect of the matter, the undertaking given by the Ld. AR for producing the director of the investing companies before the Revenue and particularly upon considering the judgment relied upon, respectfully relying upon the same, find it fit and proper to restore the issue to the file of the Ld. Assessing Officer for deciding the same afresh upon giving an opportunity to the assessee to substantiate its case and also taking into consideration the presence of the Id. Directors of the companies and the evidence on record or any other evidence which the assessee may choose to file at the time of hearing of the matter and to pass order in accordance with law. We, further make it clear that the assessee will also cooperate with the Revenue to adjudicate the matter in its proper perspective. Hence assessee's appeal is allowed for statistical purposes.

4. In the result, the appeal of the assessee is allowed for statistical purposes.

Order Pronounced in the Open Court on 12th August, 2020.

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

Sd/-
(Madhumita Roy)
JUDICIAL MEMBER

Dated: 12/08/2020
Biswajit, Sr. PS

Copy of order forwarded to:

1. Dhanrashi Vintrade Pvt. Ltd., Room No. 307, 3rd Floor, 56, Clive Square, 34, Idra Kumar Karnani Street, Kolkata – 700 012.
2. ITO, Ward 6(1), Kolkata.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Assistant Registrar
ITAT, Kolkata