

*IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH Virtual Court "A" KOLKATA*

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

ITA No.265/Kol/2020
Assessment Year:2012-13

Mahamani Vinimay Pvt. Ltd. C/o Pawan Kumar Agarwal, N.S. Road, Islampur, Uttar Dinajpur-733 202 [PAN No.AAHCM 7689 M]	बनाम/ V/s.	Income Tax Officer, Ward-2(1), Aayakar Bhawan, P-7, Chowringhee Square, 7 th Floor, Kolkata-69
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	Shri K.M. Roy, CA
प्रत्यर्थी की ओर से/By Respondent	Shri Dhruvajyoti Ray, JCIT-SR-DR
सुनवाई की तारीख/Date of Hearing	03-08-2020
घोषणा की तारीख/Date of Pronouncement	19-08-2020

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)-17, Kolkata's order dated 18.10.2019, passed in case No. 198/CIT(A)-17/Kol/17-18, involving proceedings u/s 143(3) of the Income Tax Act, 1961; in short 'the Act'.

Heard both the parties. Case file perused.

2. With the able assistance of both the learned representatives appearing at assessee and Revenue's behest, we notice at the outset that the former's sole substantive grievance challenges correctness of the lower authorities' action adding its share application / premiums sum of ₹5,21,00,000/- to be lacking genuineness and creditworthiness. We also find the CIT(A) who have affirmed the impugned addition in his lower appellate order passed *ex parte*.

3. Learned authorized representative submits during the course of hearing that both the lower authorities have erred in law and on facts in treating the assessee's share application / premium sum as unexplained cash credits. He invited our attention to the Assessing Officer's assessment order dated 12.03.2015 that although the assessee had filed all necessary evidence in support of the impugned share application / premium, it had failed to produce the corresponding investor entities' directors. He thereafter submitted an undertaking that the assessee to very much ready to produce the said directors; if given afresh innings before the Assessing Officer.

4. Learned departmental representative on the other hand has submitted that the assessee had not put in appearance before the CIT(A) despite availing numerous opportunities. And all this non-cooperation resulted in the impugned addition being affirmed in lower appellate order under challenge. He fails to dispute that there is no indication in the CIT(A)'s appellate order as to whether the assessee had been actually served the relevant having notice or not. Be that as it may, the fact remains neither this Assessing Officer nor the CIT(A) have considered the assessee's supportive evidence qua its share application / premium sum in dispute. Face with this situation, we deem it appropriate to restore the assessee's instant sole grievance back to the Assessing Officer for afresh adjudication as per law within three effective opportunities. It is made clear that the assessee shall itself produce the investor entities' directors before the Assessing Officer in consequential proceedings.

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

Order pronounced in open court on 19/08/2020

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

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

*Dkp-Sr.PS

दिनांक:- 19/08/2020

कोलकाता / Kolkata

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

1. अपीलार्थी/Appellant-Mahamani Vinimay Pvt. Ltd. C/o Pawan Kr. Agarwal, N.S. Road, Islampur, Uttar Dinajpur-733 203
2. प्रत्यर्थी/Respondent-ITO Wd-2(1), Aayakar Bhawan, P-7, Chowringhee Square 7th Floor, 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 ।