

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

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

ITA No.1492/Kol/2019
Assessment Year: 2009-10

Danodia Investments and Finance Ltd., 50, Chowringhee Road, Kolkata-700 071 [PAN No.AAACD 2577 Q]	बनाम / V/s.	Dy. Commissioner of Income Tax, CentralCircle-2(3), 110, Shantipally, E.M. Bypass, Kolkata-107
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	None
प्रत्यर्थी की ओर से/By Respondent	Shri Dhrubajyoti Ray, JCIT-DR
सुनवाई की तारीख/Date of Hearing	10-09-2020
घोषणा की तारीख/Date of Pronouncement	-09-2020

आदेश /O R D E R

PER S.S.Godara, Judicial Member:-

This assessee’s appeal for assessment year 2009-10 arises against the Commissioner of Income Tax (Appeals)-3, Kolkata’s order dated 04.09.2018 passed in case No.278/16-17 involving proceedings 147 r.w.s.143(3) of the Income Tax Act, 1961; in short ‘the Act’.

Case called twice. None appears at the assessee’s behest. It is accordingly proceeded ex parte. The case is now taken up for adjudication on merits.

2. We notice at the outset that the CIT(A)'s *ex parte* lower appellate order under challenge has affirmed the Assessing Officer's action treating the assessee's share application / premium sum of ₹4,50,00,000/- as bogus unexplained cash credits u/s 68 of the Act since lacking genuineness / creditworthiness of the investors concerned. This was followed by unexplained commission payment of ₹8.10 lakh @ 1.8% by way of accommodation entry(ies). Learned departmental representative has taken pains to highlight the fact that although the assessee did not appear before the CIT(A); but the latter has considered all factual matrix in the lower appellate order running into 34 pages.

3. We find no merit in the Revenue's argument(s). The fact remains that the CIT(A)'s order has not independently examined the detailed evidence filed at the assessee's behest forming part of the case record leads us to the conclusion that this taxpayer deserves one more innings before the CIT(A) so as to prove genuineness / creditworthiness of its share application / premium sum(s). We thus restore the assessee's above sole grievance back to the CIT(A) for his appropriate adjudication as per law within three effective opportunities of hearing.

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

Order pronounced in open court on 23/09/2020

Sd/-

(लेखा सदस्य)

(J.Sudhakar Reddy)

Accountant Member

*Dkp-Sr.PS

Sd/-

(न्यायिक सदस्य)

(S.S.Godara)

Judicial Member

दिनांक:- 23/09/2020 कोलकाता / Kolkata

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

1. अपीलार्थी/Appellant-Danodia Investments & Finance Ltd., 50, Chowringhee Road Kolkata-700 071
2. प्रत्यर्थी/Respondent-DCIT, CC-2(3), Aayakar Bhawan, Poorva, 110, Shantipally, E.M.Bypass Kolkata-107
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 ।