

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.1489/Kol/2018**  
Assessment Year: 2012-13

Chandra Nirman Pvt.Ltd. 85, Metcale Street, 2 <sup>nd</sup> Floor, Room No. 208, Kolkata-700 013 [PAN No.AACCC 6689 C]	बनाम / V/s.	Joint Commissioner of Income Tax, Range-2, Aaykar Bhawan, 7 <sup>th</sup> Floor, P-7, Chowringhee Square, Kolkata-700069
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	Shri Ankit Jalan, Advocate
प्रत्यर्थी की ओर से/By Respondent	Shri Dhruvajyoti Roy, JCIT-SR-DR
सुनवाई की तारीख/Date of Hearing	29-09-2020
घोषणा की तारीख/Date of Pronouncement	19-10-2020

**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)-1, Kolkata’s order dated 30.05.2018 passed in case No.750/CIT(A)-1/Ramge-2/2015-16 involving proceedings u/s 143(3) of the Income Tax Act, 1961; in short ‘the Act’.

Heard both the parties. Case file(s) perused.

2. The assessee’s sole substantive grievance raised in the instant appeal challenges correctness of both the lower authorities’ action treating its share capital / premium of ₹20 lakh involving of face-value of ₹2,00,000/- and premium of ₹18 lakhs; respectively as unexplained cash credits liable to be added u/s 68 of the Act.

3.        Learned counsel representing assessee vehemently contended during the course of hearing that both the lower authorities' have erred in law and on facts in treating its share capital / premium in issue as lacking genuineness / creditworthiness. He seeks to highlight the fact that assessee had placed on record all the corresponding documentary evidence in the nature of audited balance-sheet(s), profit and loss account(s), copy of muster data as per official website of Ministry of Corporate Affairs relevant to the assessee as well as the share subscriber, Income Tax return filed for the impugned assessment year, bank statement and other similar document(s) in support of the impugned share application.

4.        Mr. Jalan next took us to assessment order dated 28.03.2015 that the Assessing Officer had asked for the assessee's director's personal appearance only on 26.06.2015 for the first time and fixed the next hearing on 10.03.2015 followed by similar notice for appearance of the investor party on 16.03.2015. Learned counsel accordingly pleads in view of the said details that the concerned director had very well informed the Assessing Officer that he would not be able to come present since out of station. He therefore submits that the assessee had not been given ample opportunities as well to prove genuineness / creditworthiness of the impugned share application / premium. Lastly he prayed for deleting the impugned addition in view of the various judicial precedents as well as that such credits are no more unexplained since supported by the cogent supportive evidence.

5.        Learned departmental representative has placed strong reliance on both the lower authorities making the impugned addition. His case is that mere filing of documentary evidence does not absolve the assessee from proving genuineness / creditworthiness of the investor party concerned.

6.        We have given our thoughtful consideration to the foregoing rival pleadings. Suffice to say, both the lower authorities' have treated the assessee's share application / premium of ₹20 lakh coming from M/s Parv Suppliers P. Ltd., as unexplained cash credits lacking genuineness / creditworthiness. We observe from a perusal of the case

file as well as with the able assistance of learned authorized representative that the Assessing Officer had not afforded adequate opportunities to the assessee for producing the director(s) concerned during the course of scrutiny (supra). That being the case, we are of the opinion that larger interest of justice would be met if the issue is examined afresh at the Assessing Officer's end so as to carry out the necessary factual verification *qua* genuineness / creditworthiness of the impugned share application / premium coming from the sole investor involved in the instant *lis* within three effective opportunities of hearing. Suffice to say, the assessee shall also been at liberty to file on record all necessary particulars as well as relevant judicial precedents in support of its claim. Ordered accordingly.

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

Order pronounced in open court on 19/10/2020

Sd/-  
(लेखा सदस्य)  
(J.Sudhakar Reddy)  
Accountant Member  
\*Dkp-Sr.PS

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

दिनांक:- 19/10/2020 कोलकाता / Kolkata

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

1. अपीलार्थी/Appellant-Chandra Nirman Pvt. Ltd., 85, Metcalfe Street, 2<sup>nd</sup> Floor  
Room No. 208, Kolkata-13
2. प्रत्यर्थी/Respondent-JCIT, Range-2, Aaykar Bhawan, 7<sup>th</sup> Floor, P-7, Chowringhee  
Square, Kolkata-700 069
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.

By order/आदेश से,

/True Copy/

सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
कोलकाता ।