

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.2460/Kol/2019
Assessment Year: 2012-13

M/s Dayavant Dealer Pvt. Ltd., 14, Weston Street, 2 nd Floor, Kolkata-700 013 [PAN No.AACCD 8123 A]	बनाम / V/s.	Income Tax Officer Ward-2(2) Aaykar Bhawan, P-7, Chowringhee Square, Kolkata-700069
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	None
प्रत्यर्थी की ओर से/By Respondent	Shri Ram Bilash Meena-CIT-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)-7, Kolkata’s order dated 09.01.2018 passed in case No.312/CIT(A)-7/Kol/Ward-2(2)/16-17 involving proceedings u/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 proceed ex parte. The case is now taken up for adjudication on merits.

2. It transpires at the outset with the able assistance of learned CIT-DR that the CIT(A)’s order under challenge affirming the Assessing Officer’s action treating the assessee’s share capital / premium of ₹17,18,0,000/-; has been passed *ex parte* without dealing with the relevant factual matrix thereof as contemplated u/s 250(6) of the Act requiring forming of points of determination followed by a detailed adjudication

thereupon. Learned departmental representative has sought to invite our attention to the CIT(A)'s order in **para-5.4 page-4** that he had also dealt with the merits.

3. We see no reason to accept for Revenue's foregoing argument since there is no discussion at all in the lower appellate order under challenge *qua* the assessee's share capital / premium in light of the supportive details forming part of records filed during the course of assessment. The assessee's statement of facts before the CIT(A) had made it clear that the Assessing Officer's sec. 133(6) notice to its investor / subscribers of the share capital stood duly replied also has not been counted. We therefore deem it appropriate to restore the above sole issue back to the CIT(A) for his afresh decision as per law within three effective opportunities of hearing. We order accordingly.

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

Order pronounced in open court on 19/10/2020

SSd/-

(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-M/s Dayavant Dealer Pvt.Ltd., 14, Weston Street, 2nd Floor, Kolkata-13
2. प्रत्यर्थी/Respondent-ITO, Wd-2(3), Aaykar Bhawan, 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 ।