

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.1606/Kol/2019**  
Assessment Year: 2008-09

Sheetal Cityrealtors Pvt. Ltd., ( <i>formerly Evergreen Mercantile P. Ltd.</i> ) 107, Foreshore Road, Shibpur, Howrah-711102 [ <b>PAN No.AABCE 8664 L</b> ]	बनाम / V/s.	Income Tax Officer Ward-5(3), Aayakar Bhawan, 8 <sup>th</sup> Floor, P-7, Chowringhee Square, Kolkata-700 069
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	Shri S.M.Surana, Advocate
प्रत्यर्थी की ओर से/By Respondent	Shri Dhruvajyoti Ray, JCIT-SR-DR
सुनवाई की तारीख/Date of Hearing	01-10-2020
घोषणा की तारीख/Date of Pronouncement	21-10-2020

**आदेश /O R D E R**

PER S.S.Godara, Judicial Member:-

This assessee’s appeal for assessment year 2008-09 arises against the Commissioner of Income Tax (Appeals)-2, Kolkata’s order dated 30.05.2016 passed in case No.1556/CIT(A)-2/Kol/14-15 involving proceedings u/s143(3) r.w.s. 263 r.w.s 143(3) r.w.s. 147 of the Income Tax Act, 1961; in short ‘the Act’.

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

2. We advert to the basic relevant facts pertaining to the sole issue of correctness of both the lower authorities' action treating assessee's share capital / premium of ₹3,91,00,000/- as unexplained cash credits during the course of assessment dated 26.03.2014 as upheld in the CIT(A)'s ex parte order; without dealing with the corresponding detailed evidence on record in compliance to sec. 250(6) of the Act requiring framing of points of determination followed by a detailed adjudication.

3. The assessee is a company engaged in share dealing & investment business. It had filed its original return on 15.07.2008 declaring "nil" income. The same stood processed. The Assessing Officer thereafter formed reason to believe that the assessee taxable income liable to be assessed had escaped assessment. He thus initiated sec. 148 re-opening in motion and completed the corresponding re-assessment on 18.05.2010 determining total income at ₹22,500/- only.

4. We notice from a perusal of the case file that the CIT thereafter termed the said re-assessment as an erroneous one causing prejudice to the interest of Revenue to exercise his sec. 263 revision jurisdiction vide order dated 28.03.2013 and directed the Assessing Officer to verify the three limb(s) of identity, genuineness and creditworthiness of the investor parties qua the assessee's share application / premium after conducting independent enquiries. Learned departmental representative fails to rebut the clinching fact that the Assessing Officer's consequential assessment adding the impugned sum as unexplained cash credits had once again put the onus on assessee itself than carrying out the independent enquiries as per the CIT's original revision direction hereinabove.

5. We also wish to repeat that the CIT's lower appellate order under challenge had also not dealt with assessee's detailed evidence forming part the case file in support the genuineness / creditworthiness of the share application / premium. We therefore deem it appropriate to restore the sole issue back to Assessing Officer to frame afresh assessment within three effective opportunities of hearing in compliance to the CIT's original revision direction as per law.

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

Order pronounced in open court on 21/10/2020

Sd/-  
(लेखा सदस्य)  
(J.Sudhakar Reddy)  
Accountant Member

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

\*Dkp-Sr.PS

दिनांक:- 21/10/2020 कोलकाता / Kolkata

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

1. अपीलार्थी/Appellant-Sheetal Cityrealtors Pvt. Ltd. (formerly Evergreen Mercantile Pvt. Ltd.) 107, Foreshore Road, Shibpur, Howrah-711102
2. प्रत्यर्थी/Respondent-Income Tax Officer, Ward-5(3), Aayakar Bhawan, 8<sup>th</sup> Floor, P-7, Chowringhee Square, 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 ।