

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH '(B)', KOLKATA

[BEFORE SHRI P.M. JAGTAP, HON'BLE VICE PRESIDENT (KZ) &  
SHRI A.T. VARKEY, HON'BLE JUDICIAL MEMBER]

[Through Virtual Court]

I.T.A. No. 273/Kol/2020  
Assessment Year: 2009-10

*M/s. Hanuman Suppliers Ltd.....Appellant*  
*Cabin No. 104, 1<sup>st</sup> Floor,*  
*SCO 3033-3034, Sector 22D,*  
*Chandigarh - 160022.*  
*[PAN: AACCH 1443 H]*

*Vs*

*ITO, Ward - 13(2), Kolkata.....Respondent*  
*P-7, Chowringhee Square,*  
*Kolkata - 700 069.*

**Appearances by:**

*Shri Miraj D. Shah, AR appearing on behalf of the Assessee.*

*Shri Imokaba Jamir, CIT appearing on behalf of the Revenue.*

Date of concluding the hearing : November 03, 2020

Date of pronouncing the order : November 03, 2020

**ORDER**

**PER P.M. JAGTAP, VICE-PRESIDENT (KZ):**

This appeal filed by the assessee is directed against the order of Ld. CIT(A) – 5, Kolkata dated 03.09.2019 passed ex-parte whereby he dismissed the appeal of the assessee.

2. The assessee in the present case is a company which filed its return of income for the year under consideration originally on 25.09.2009 declaring a total income of Rs. 1,907/-. Although the said return was initially processed by the AO u/s 143(1) of the Act, the assessment was subsequently reopened by him and in the assessment completed u/s 143(3)/147 of the Act vide an order dated 30.08.2011, the total income of the assessee was determined by the AO at Rs. 29,407/-. The records of the said assessment came to be examined by the concerned Ld. Pr. CIT and on such examination, he found that the

assessment made by the AO u/s 143(3)/147 of the Act dated 30.08.2011 was erroneous and prejudicial to the interest of the Revenue, in as much as the amount received by the assessee-company during the year under consideration on account of share capital and share premium aggregating to Rs. 14.70 crores representing unexplained cash credit was accepted by the AO without making proper and thorough enquiry to ascertain the identity and creditworthiness of the concerned share subscribers as well as the genuineness of the relevant transactions. He accordingly set aside the said assessment vide an order dated 05.02.2014 passed u/s 263 of the Act with the direction to the AO to make a fresh assessment by conducting detailed enquiries on the issue of fresh share capital and share premium introduced by the assessee-company in its books of account for the year under consideration.

3. As per the direction given by the Ld. CIT u/s 263 of the Act, notices were issued by the AO to the assessee u/s 142(1) of the Act. There was however no response on the part of the assessee to the said notices issued by the AO. Even the notices issued by the AO to the assessee as well as the share subscribing companies u/s 131 of the Act failed to invoke any response. The AO, therefore, was left with no option but to complete the assessment to the best of his judgement on the basis of material available on record. In the assessment so completed u/s 147/263/144 of the Act vide an order dated 30.03.2015, the entire share capital including premium aggregating to Rs. 14.70 crores was added by the AO to the total income of the assessee by treating the same as unexplained cash credit u/s 68.

4. Against the order passed by the AO u/s 147/263/144 of the Act, an appeal was preferred by the assessee before the Ld. CIT(A)

and since there was no satisfactory compliance on the part of the assessee to the notices issued by the Ld. CIT(A) fixing the said appeal for hearing from time to time, the Ld. CIT(A) dismissed the appeal of the assessee vide his appellate order dated 03.09.2019 passed ex-parte thereby confirming the addition made by the AO to the total income of the assessee u/s 68 of the Act. Aggrieved by the order of the Ld. CIT(A), the assessee has preferred this appeal before the Tribunal.

5. We have heard the arguments of both the sides and also perused the relevant material available on record. The learned counsel for the assessee has submitted that registered office of the assessee-company was shifted to Chandigarh and since the notices sent by the office of the Ld. CIT(A) were not received by the assessee-company, there was no compliance on the part of the assessee-company to the said notices. He has contended that the non-compliance on the part of the assessee during the course of appellate proceedings before the Ld. CIT(A) thus was due to non-receipt of the notices and it constituted a sufficient cause. He has also submitted that the assessee-company now is in a position to produce all the share subscriber companies for verification/examination before the AO along with the relevant documentary evidence to establish their identities as well as creditworthiness and the genuineness of the relevant transactions. He has urged that one opportunity may, therefore, be given to the assessee by sending the matter back to the AO. Keeping in view all the facts of the case, we are inclined to accept this contention of the learned counsel for the assessee and since the ld. DR has also not raised any objection for sending the matter back to the AO for proper verification, we set aside the impugned order passed by the Ld. CIT(A) ex-parte and restore the matter to the file of

the AO for deciding the same afresh after giving the assessee one more opportunity to produce the concerned share subscriber companies alongwith the relevant documentary evidence to explain the cash credit entries appearing in their name in terms of section 68. As undertaken by the learned counsel for the assessee, the assessee shall make due compliance before the AO and shall extend all the possible cooperation in order to enable the AO to complete the assessment afresh expeditiously.

**6. In the result, the appeal of the assessee is treated as allowed for statistical purpose.**

Order Pronounced in the Open Court on 3<sup>rd</sup> November, 2020.

Sd/-  
(A.T. VARKEY)  
JUDICIAL MEMBER

Sd/-  
(P.M. JAGTAP)  
VICE PRESIDENT

**Dated: 03/11/2020**  
Biswajit, Sr. PS

Copy of order forwarded to:

1. M/s. Hanuman Suppliers Ltd., Cabin No. 104, 1<sup>st</sup> Floor, SCO 3033-3034, Sector 22D, Chandigarh – 160022.
2. ITO, Ward – 13(2), Kolkata.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Assistant Registrar  
ITAT, Kolkata