

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA 'C' BENCH, KOLKATA**

**Before Shri J. Sudhakar Reddy, Accountant Member &
Shri Satbeer Singh Godara, Judicial Member**

**I.T.A. No. 2453/KOL/2017
Assessment Year: 2009-2010**

Brindavan Commodities Pvt. Limited,.....Appellant
C/o. RSVPC & Company,
41A, A.J.C. Bose Road, Suite No. 613,
6th Floor, Kolkata-700017
[PAN:AADCB3837E]

-Vs.-

Income Tax Officer,.....Respondent
Ward-7(4), Kolkata,
P-7, Chowringhee Square,
Aayakar Bhavan, Kolkata-700069

Appearances by:

Shri Vinod Kumar Jain, FCA, for the Appellant
Shri Manish Kanajia, CIT, for the Respondent

Date of concluding the hearing : December 01, 2020
Date of pronouncing the order : January 22, 2021

O R D E R

Per Shri Satbeer Singh Godara, Judicial Member:-

The assessee's appeal for assessment year 2009-10, arises against the Id. Commissioner of Income Tax (Appeals)-16, Kolkata's order dated 31.01.2017 passed in the case No. 620/CIT(A)-16/KOL/2015-16/W-7(4), involving proceedings under section 147/263/143(3) of the Income Tax Act, 1961; in short 'the Act'.

Heard both the parties. Case file perused.

2. The assessee's first and foremost grievance seeks to reverse both the lower authorities action adding its share capital/prfemium of Rs.15,45,15,000/- as unexplained cash credits u/s 68 in the course of assessment and affirmed in the lower appellate proceedings. It is vehemently submitted that the Assessing Officer erred in making addition of Rs.15,45,15,000/- in the assessment in question framed on 31.03.2014 and that the CIT(A)'s order; passed ex parte, has also not dealt with the issue(s) on merits in the light of section 250(6) of the Act requiring framing of the points of determination followed by a detailed adjudication.

3. Ld. CIT(D.R.) at this stage invited our attention to para 4 at page 2 in the CIT(A)'s order that he had duly sent the corresponding notice(s) of hearing dated 24.08.2016, 10.05.2016 and 02.03.2016 to the assessee. The fact however remains that none of the said hearing notices has been served on the assessee as it is clear from the corresponding lower appellate observation(s). We, therefore, deem it appropriate in this factual backdrop to restore the issue back to the file of CIT(A) for fresh adjudication as per law on merits within three effective opportunities of hearing. The assessee shall itself appear before the CIT(A) on or before 31.08.2021 along with a copy of this order to prove the genuineness as well as creditworthiness of its investors concerned.

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

Order pronounced in the open Court on January 22, 2021.

Sd/-

(J. Sudhakar Reddy)
Accountant Member

Sd/-

(Satbeer Singh Godara)
Judicial Member

Kolkata, the 22 day of January, 2021

- Copies to :
- (1) **Brindavan Commodities Pvt. Limited,
C/o. RSVPC & Company,
41A, A.J.C. Bose Road, Suite No. 613,
6th Floor, Kolkata-700017**
 - (2) **Income Tax Officer,
Ward-7(4), Kolkata,
P-7, Chowringhee Square,
Aayakar Bhavan, Kolkata-700069**
 - (3) *Commissioner of Income Tax (Appeals) -16, Kolkata;*
 - (4) *Commissioner of Income Tax- , Kolkata*
 - (5) *The Departmental Representative*
 - (6) *Guard File*

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.