

**IN THE INCOME TAX APPELLATE TRIBUNAL, “C” BENCH, KOLKATA**  
[ Before Shri P.M. Jagtap, V.P (KZ) and Smt. Madhumita Roy, JM ]

**I.T.A. No. 420/Kol/2020**  
Assessment Year:2012-13

Charisma Mercantiles Pvt. Ltd PAN: AAEECC4117D	Vs.	I.T.O., Ward 8(1), Kolkata
Appellant		Respondent

Date of Hearing (Virtual)	12-10-2021
Date of Pronouncement	12-10-2021
For the Appellant	Shri M.D Shah, Ld.AR
For the Respondent	Shri Alope Nag, CIT, Ld.DR

**ORDER**

**Per Smt. Madhumita Roy, JM**

The instant appeal filed by the Assessee is directed against the order dated 29-01-2020 passed by the Ld. CIT(Appeals)-16, Kolkata [ in short, the Ld. CIT(A)] arising out of the assessment order passed by the Ld. ITO, Wd-8(1), Kolkata u/s. 143(3) of the Income Tax Act, 1961 (hereinafter referred to as “ the Act”) for the Assessment Year 2012-13, whereby and whereunder the addition of Rs. 9,51,80,000/- made on account of unexplained cash credit towards share capital and share premium u/s. 68 of the Act by the Learned Assessing Officer ( in short, the ld.AO), has been confirmed.

2. There is delay of 55 days in filing the instant appeal before us by the assessee. The Learned Counsel (in short, the Ld. Counsel) appearing for the assessee at the time of hearing of the matter before us submitted that the order impugned dt. 29-01-2020 was received by the assessee only on 10-03-2020 and immediately thereafter Covid Pandemic spreaded throughout the nation. The assessee was therefore, not able to file the appeal in due time due to lock down commenced immediately after receiving the order impugned due to such pandemic. Relying on the order passed by the Hon’ble Supreme Court, wherein

delay in filing the appeal due to pandemic situation has to be condoned directed he prays for condonation of delay, if any, in preferring the appeal before us. Such fact has not been controverted by the Id. DR.

3. Having regard to the facts and circumstances of the case particularly the situation arose due to Covid Pandemic followed by prolonged lock down and the direction passed by the Hon'ble Apex Court, we condone the delay in filing such appeal before us.

4. At the time of hearing of the instant appeal, the Ld. Counsel appearing for the assessee submitted before us that after the assessment framed a search was carried out on 03-01-2018, where a statement of the director of the assessee company was also recorded u/s. 132(4) of the Act. It was further submitted by the Ld. AR that while replying the answer to Question No. 9 as put by the department, the said director accepted that the assessee company (appearing at S.No. 5 of the tabular chart provided in respect to the Answer to Question No.9) was controlled and managed by the said director and further that the assessee company is a paper/shell company for the purpose of accommodation entries in the form of bogus share premium/share capital/unsecured loans. In support of his submission, the Ld. AR filed a copy of the statement of Shri Ravi Kumar Neotia recorded u/s. 132(4) of the Act on 03-01-2018. He, therefore, prays for setting aside the issue to the file of the Id. AO to frame the assessment afresh upon taking into consideration this particular aspect of the matter and to pass orders accordingly.

5. It was further pointed out by the Id. AR that the issue is also covered by the number of orders passed by the Hon'ble Co-ordinate Bench including in ITA No. 1947/Kol/2017 for the A.Y 2012-13 in the matter of M/s. Darshan Consultants P.Ltd Vs. ITO, Ward 8(2), Kolkata, a copy whereof has also been annexed the paper book filed by the assessee before us. The above submission made by the Id. AR has not been controverted by the Id. DR.

6. We have heard the submissions made by the respective parties, We have also perused the order passed by the co-ordinate bench (ITAT, Kolkata) in the case of M/s. Darshan Consultants P.Ltd (supra). While dealing with this particular issue the co-ordinate bench (ITAT, Kolkata) has been pleased to observe as follows:-

*2. At the outset the Id .DR brought to our knowledge that a new development has taken place in the case of assessee. As per the Id. DR, after the assessment was framed against the assessee, a search was carried out on 03.01.2018 wherein the statement of director of this assessee company was also recorded U/S 132(4) of the Act wherein for question no. 9 the director has accepted that the assessee company which is seen at serial no. 6 of the table given under answer to question no. 9 that it was controlled and managed by him and that the assessee company is a paper I shell company formed with the sole purpose of providing accommodation entries in the form of bogus share premium I bogus unsecured loans to different beneficiaries. In the light of the aforesaid development in the interest of justice and fair play, the assessment made, need to be framed afresh. The Id. NR could not controvert the fact of the search conducted on the assessee on 03.01.2018 and the statement of the director of the assessee company as recorded above. In the light of the aforesaid new development, and keeping in mind, the settled position of law that the tax has to be assessed on the right person, right income and in the right assessment year, we set aside the impugned order and remit the matter back to the file of the Assessing Officer for de-novo adjudication in the light of the new development after the search which happened on 03.01.2018.”*

7. Having heard the Ld. Counsel appearing for the parties, having regard the facts and circumstances of the case and order passed by the co-ordinate bench as relied upon by the Id. AR, we are of the considered view, the assessment needs to be framed afresh particularly in view of the subsequent event happened after the completion of the assessment proceeding. Thus we set aside the issue to the Ld. AO for de novo assessment with a further direction upon him to give a reasonable opportunity of being heard to the assessee and also to take into consideration the evidences, which the assessee may choose to file at the time of hearing of the matter and to passé a reasoned order in accordance with law.

8. In the result, the appeal of the assessee is allowed for statistical purpose.

Order is pronounced in the open court on 12-10-2021

Sd/-  
(P.M. Jagtap)  
Vice-President(KZ)

Sd/-  
(Madhumita Roy)  
Judicial Member

Dated :12-10-20201

\*\*PP(Sr.P.S.)

Copy of the order forwarded to:

1. Respective Appellant/Assessee: M/s. Charisma Mercantiles Pvt. Ltd 53A Mirza Ghalib Street, 4<sup>th</sup> Fl., Kolkata-700 016..
2. Respondent/Department: The I.T.O., Ward 8(1), Aaykar Bhavan, P-7 Chowringhee Square, Kolkata-700 069.
3. CIT(A),
4. CIT- ,
5. DR, ITAT, Kolkata.

/True Copy,

By order,

Senior Private Secretary/D.D.O