

**IN THE INCOME TAX APPELLATE TRIBUNAL "SMC"**  
**(Virtual Court Hearing), BENCH KOLKATA**

**Before Shri Sanjay Garg, Judicial Member**

**I.T.A. No.2498/Kol/2019**  
Assessment Year: 2012-13

**Prem Forge & Alloys Pvt. Ltd.....Appellant**  
**C/o Burman Bohra & Associates,**  
**Commerce House, 5<sup>th</sup> Floor,**  
**Room No.4, 2A, G.C. Avenue,**  
**Kolkata-700013.**  
**[PAN:AAFCEP0895A]**

vs.

**ITO, Technical-1, Kolkata.....Respondent**

**Appearances by:**

Shri Miraj D Shah, AR, appeared on behalf of the appellant.

Shri Jayanta Khanra, JCIT, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : September 02, 2021

Date of pronouncing the order : October 26, 2021

**Hearing through Video Conferencing**

**ORDER**

The present appeal has been preferred by the assessee against the order dated 18.09.2019 of the Commissioner of Income Tax (Appeals)-17, Kolkata (hereinafter referred to as 'CIT') passed u/s 143(3) of the Income Tax Act (hereinafter referred to as the 'Act').

2. The sole issue involved in this appeal is relating to the share application money of Rs.37,17,000/- received by the assessee company.

3. The Id. Assessing Officer observed that the assessee during the year received share application money from eight parties totalling Rs.37,17,000/-. Being asked to explain the identity, creditworthiness of the subscribers and genuineness of the transactions, the assessee furnished relevant details and documents of the subscribers such as Income Tax Return for assessment year 2012-13 along with computation of income, Income and Expenditure A/c, Balance Sheet, bank statement and ledger of the

subscribers and bank accounts of the subscribers. However, the Assessing Officer did not get satisfied with the above documents furnished by the assessee to prove the identity, creditworthiness and genuineness of the transactions. Accordingly, the Assessing Officer treated the aforesaid share application money from eight parties as unexplained income of the assessee and added the same in the income of the assessee u/s 68 of the Act.

4. The Id. CIT(A) confirmed the addition so made by the Assessing Officer. The assessee thus came in appeal before this Tribunal.

5. I have heard the rival contentions of the Id. representatives of the parties. The Id. counsel for the assessee has submitted that the share application money was received from eight parties during the year and that all the eight parties were either directors of the assessee-company or close relatives of the directors of the company. That necessary documents such as Income Tax Return for assessment year 2012-13 along with computation of income, Income and Expenditure A/c, Balance Sheet, bank statement and ledger of the subscribers and bank accounts of the subscribers etc. were filed before the Assessing Officer. He has further submitted the following chart in respect of eight parties:

**Details of Share Application Money received 31.03.2012**

<b>SI No.</b>	<b>Name &amp; Address of Share Applicant</b>	<b>PAN</b>	<b>Status</b>	<b>Share Application Received (Rs.)</b>	<b>Income for the year ended 31/03/2012 (Rs.)</b>	<b>Capital as on 31/03/2012 (Rs.)</b>
1	RAJU JAISWAL 182/3, BELILIOUS ROAD, HOWRAH-711101	AGBPI7571N	Director	3,65,000	3,62,299	27,53,522
2	DEEP CHAND JAISWAL 182/3, BELILIOUS ROAD, HOWRAH-711101	AGDPJ4970D	Director	82,000	2,00,963	23,13,197
3	JITENDRA JAISWAL 182/3, BELILIOUS ROAD, HOWRAH-711101	AGCPJ7537K	Director	1,80,000	2,01,015	21,26,195
4	SONAM JAISWAL 182/3, BELILIOUS	AIZPJ837OR	Wife of Mr Raju	5,00,000	2,00,362	13,54,782

	ROAD, HOWRAH-711101		Jaiswal Director			
5	MOHAMMAD MUSTAFA NADAF 26, CHATTERJEE PARA LANE, HOWRAH-711101	AKCPN7792G	Close Associate of Director	2,50,000	1,82,747	14,66,386
6	PAWAN SHAW GUHA ROAD, GHUSURI, HOWRAH	CTLPS2553Q	Close Associate of Director	1,50,000	1,82,181	13,57,392
7	SURENDRA JAISWAL 182/3, BELILIOUS ROAD, HOWRAH- 711101	ALUPJ8114B	Director	1,90,000	3,02,844	13,05,269
8	PREM CHAND JAISWAL & BROS. 182/3, BELILIOUS ROAD, HOWRAH- 711101	AADFP6304P	Father of Director is a Partner	20,00,000	2,90,427	1,15,90,158
<b>TOTAL</b>				<b>3717000</b>		

6. The ld. counsel has further submitted that a perusal of the above chart shows that small amounts were received by the assessee from the seven subscribers except from the M/s Prem Chand Jaiswal & Bros. mentioned at serial no.8 of the chart. He has submitted that in the said firm i.e. M/s Prem Chand Jaiswal & Bros., the father of the director of the company is a partner in the said firm. He has further submitted that in fact the goods were purchased by the assessee-company from the said firm and the amount was outstanding against the assessee which was later on converted into share application money. He has further submitted that a perusal of the above chart would show that the subscribers had enough capital to make investment in the assessee company. Moreover, all the parties were interested parties in the assessee company being the directors of the assessee company or the close relatives of the directors of the company. He, therefore, submitted that not only the identity, creditworthiness of the subscribers has been proved but also the genuineness of the transactions. On the other hand, the ld. DR has relied upon the findings of the lower authorities.

7. I have considered the rival submissions. The assessee has duly established not only the identity but also the creditworthiness of the share subscribers and has further submitted that the share subscribers are either directors of the assessee company or the close relatives of the directors of the company as mentioned in the chart as reproduced above. In view of this, I do not find any justification to make the impugned addition. The same is accordingly ordered to be deleted.

8. In the result, the appeal of the assessee stands allowed.

***Kolkata, the 26<sup>th</sup> October, 2021.***

Sd/-  
**[Sanjay Garg]**  
**Judicial Member**

Dated:26.10.2021.

RS

*Copy of the order forwarded to:*

1. Prem Forge & Alloys Pvt. Ltd
2. ITO, Technical-1, Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Sr.PS/D.D.O, Kolkata Benches