

**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'A' BENCH, KOLKATA  
{VIRTUAL COURT HEARING}**

**(Before Shri P.M. Jagtap, Hon'ble Vice-President, KZ & Shri Aby T. Varkey, Hon'ble Judicial Member)**

**ITA No. 986/Kol/2018**  
Assessment Year: 2012-13

**M/s. Carter Equipments Pvt. Ltd.....Appellant**  
**C/o. D.J. Shah & Co.**  
**Kalyan Bhavan**  
**2, Elgin Road**  
**Kolkata - 700 020**  
**[PAN : AACCC 9576 A]**

**Vs.**

**Income Tax Officer, Ward-6(1), Kolkata.....Respondent**

**Appearances by:**

*Shri Miraj D. Shah, A/R, appeared on behalf of the assessee.*

*Shri Biswanath Das, Addl. CIT, D/R, appearing on behalf of the Revenue.*

Date of concluding the hearing : November 12<sup>th</sup>, 2021

Date of pronouncing the order : November 12<sup>th</sup>, 2021

**ORDER**

**Per P.M. Jagtap, Vice-President, KZ :-**

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) – 7, Kolkata, (hereinafter the 'Id. CIT(A)'), dt. 27/03/2018, passed *ex-parte* whereby he dismissed the appeal of the assessee for non-prosecution.

2. The assessee in the present case is a company which filed its return of income for the year under consideration on 24/02/2013 declaring a total income of Rs. 54,260/-. The said return was selected for scrutiny through CASS for verifying the large amount of share premium received by the assessee during the year under consideration. Accordingly, a notice u/s 143(2) was issued by the Assessing Officer which was duly served on the assessee company. There was, however, no response from the assessee's side to the said notice u/s 143(2) as well as the subsequent notices issued by the Assessing Officer u/s 142(1) to the assessee. The Assessing Officer was left, therefore, with no option but to complete the assessment to the best of his judgment on the basis of the material available on record. In the assessment so completed u/s 144 of the Act vide order dt. 04/03/2015, the entire amount of Rs. 4,00,00,000/- representing share capital of Rs.16,00,000/- and share premium of Rs.3,84,00,000/- was added by the Assessing Officer to the total income of the assessee u/s 68 of the Act by treating the

same as unexplained cash credit as there was failure on the part of the assessee to discharge the primary onus to establish the identity and capacity of the concerned shareholders as well as genuineness of the relevant transactions involving receipt of share capital and share premium.

3. Against the order passed by the Assessing Officer u/s 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 him fixing the appeal for hearing from time to time, the ld. CIT(A) dismissed the appeal of the assessee for non-prosecution vide his appellate order dt. 27/03/2018 passed *ex-parte* thereby confirming the addition of Rs.4,00,00,000/- made by the Assessing Officer on account of share capital and share premium by treating the same as unexplained cash credit u/s 68 of the Act. Aggrieved by the said order of the ld. CIT(A), the assessee has preferred this appeal before the Tribunal.

4. We have heard the arguments of both the sides and perused the relevant material available on record. In support of the preliminary issue raised in this appeal challenging the orders of the authorities below passed *ex-parte*, the ld. Counsel for the assessee has submitted that the tax matters of the assessee company were being managed and looked after by its director Shri Haridas Mundra who was then 93 years old. He has submitted that the said director was suffering from high blood pressure, heart ailments, virtual loss of vision etc. since January, 2015 and ultimately passed away on 06/01/2018. He has submitted that due to serious illness of the concerned director of the assessee company during the relevant period followed by his death, the case of the assessee company could not be represented either before the Assessing Officer during the course of assessment proceedings or before the ld. CIT(A) during the course of appellate proceedings.

5. Keeping in view these submissions made by the ld. Counsel for the assessee, we are satisfied that there was sufficient cause for the non-compliance on part of the assessee before the Assessing Officer during the course of assessment proceedings as well as before the ld. CIT(A) during the course of appellate proceedings and even the ld.

