

| आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता |
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, KOLKATA

BEFORE SHRI SANJAY GARG, HON'BLE JUDICIAL MEMBER
&
SHRI GIRISH AGRAWAL, HON'BLE ACCOUNTANT MEMBER

I.T.A. No. 920/Kol/2019
Assessment Year: 2012-13

M/s. Concord Dealtrade Private Limited 109, Pawanputra Apartment 1 st Floor, Sagarli Road Near St. Depot Dombivali (East) Thane Mumbai - 421203 PAN : AADCC7141A	Vs	Income Tax Officer, Ward-6(1), Kolkata
---	----	---

अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
Assessee by :	None
Revenue by :	Shri Biswanath Das, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 18/08/2022
घोषणा की तारीख /Date of Pronouncement: 02/09/2022

आदेश/ORDER

PER SANJAY GARG, JUDICIAL MEMBER:

The present appeal is directed at the instance of the assessee against the order of the Learned Commissioner of Income Tax (Appeals) - 23, Kolkata, (hereinafter the "ld. CIT(A)") dt. 07/03/2017, passed u/s 250 of the Income Tax Act, 1961 ("the Act"), for Assessment Year 2012-13.

2. Notice of hearing of the appeal was sent to the assessee by physical mode through RPAD as well as electronic form at the e-mail address of the assessee. However, no one has put in appearance on behalf of the assessee. The registered envelope containing the notice has been received back with the remand of the postal authority dt. 08/08/2022 "refuse". Therefore, it is evident that the assessee is no more interested in pursuing his appeal. Even a perusal of the impugned order of the ld. CIT(A) reveals that the assessee did not appear before the ld. CIT(A) also despite several opportunities and the ld. CIT(A) has passed an *ex-parte* order. In view of this, we proceed to adjudicate this appeal of the assessee on merit after hearing the ld. D/R.

3. The assessee has taken the following grounds of appeal:-

- “1. For that the order of the Ld. CIT(A) is arbitrary, illegal and bad in law.
2. For that the Ld. CIT(A) erred in disposing of the appeal without allowing the assessee any proper and reasonable opportunity of being heard.
3. For that the order passed by the Ld. CIT(A) is bad in law since the Ld. CIT(A) has not decided the issues ground wise in respect of the grounds raised by the appellant in the Memo of Appeal.
4. For that the Ld. CIT(A) erred in confirming the action of the Ld. AO by making addition of Share Capital and Share Premium as unexplained credit in spite of the fact that the appellant filed evidences in support of the identities and creditworthiness of the share applicants and genuineness of the transactions.
5. For that the Ld. CIT(A) erred in confirming the action of the Assessing Officer in completion of the assessment by making addition of Rs.5,38,16,000/- as unexplained credit simply because the share applicants did not comply with the summon issued u/s. 131 when otherwise all the evidences with regard to the receipt of the share application money as well as the source there of was already on assessment records.
6. For that on facts and in the circumstances of the case the addition of Rs.5,38,16,000/- confirmed by the Ld. CIT(A) was not justified.
7. For that the order of the Ld. CIT(A) be modified and the assessee be given relief prayed for.
8. For that the appellant craves leave to add, alter or withdraw any ground/s of appeal on or before hearing of the appeal.”

4. A perusal of the above grounds of appeal would show that the assessee is aggrieved by the action of the lower authorities in making/confirming the addition of Rs.5,38,16,000/- on account of share capital and share premium received by the assessee.

5. The Assessing Officer during the assessment proceedings noted that the shareholders fund has been shown as reinvested in different Private Limited Companies. That, both receiving of share application money and investing in other Private Limited Companies has been done through chain of transactions of share allottee companies, assessee company and investee companies. Besides that, the Assessing Officer also noted that there was no significant assets of the assessee

company. That on being asked to explain, no justification was forthcoming of high premium except the common reply that the decision to issue shares at high premium was taken in the core meeting to issue/receive. The Assessing Officer further noted that the company having no track record or asset base and being nearly a first balance sheet company with no visible future prospect was asking for significantly high premium per share which was devoid of commercial or financial prudence and logic. The Assessing Officer also relied upon the *modus operandi* of chain transactions done by these type of paper companies to complete the asset base and the Assessing Officer taking note of the above facts for the purpose of enquiring into the true facts and to ascertain the genuineness of the transaction and creditworthiness of the subscriber companies and also to understand the reason for investment with such a high premium, issued summons u/s 131 of the Act to the board officers/directors of the assessee company as well as the subscriber companies calling for various details relating to the matter. However, none of the board officers/Directors of the assessee company or of the subscriber companies appeared before the Assessing Officer. Though certain documents were filed before the Assessing Officer, however, from a perusal of those documents, the Assessing Officer noted as under:-

- i) They are in their initial years of operation*
- ii) Are basically investment companies*
- iii) Income tax returns show a nominal income/loss*
- iv) No business activity*
- v) investor companies received share capital with huge premium was in turn invested in the assessee company and similar other companies as well.*

6. The Assessing Officer further observed that in line of the above facts it was important to understand as to how investment that too at huge premium were given and whether the applicants had their own profit making apparatus to invest and further whether the transactions in the bank statements were merely for rotating money or the transactions were commensurate with the income of those companies etc. He further observed that the assessee company failed to discharge its onus in this respect and failed to prove the nature and source of credits. Even the assessee had failed to justify the quantum of the share premium received and

the justification thereof. He, therefore, treated the share capital and share premium received by the assessee company as unexplained cash credits in the books of accounts of the company and made the impugned addition.

7. Being aggrieved by the order of the Assessing Officer, the assessee preferred an appeal before the Id. CIT(A). However, despite several notices no one appeared before the Id. CIT(A). Even the Id. CIT(A) directed the Assessing Officer to serve the notice upon the assessee. The Assessing Officer appointed an inspector to serve the notice, whereupon the inspector visited at the address of the company. However, he reported as under:-

“As directed by the ITO ,Ward -6(1), Kol, I went to Room No.103B, 7 Ganpat Bagla road, Kolkata-700007 on 24.02.17 to serve the notice U/s 250 in the case of M/s Concord Dealtrade (P) Ltd. PAN: AADCC7141A, A.Y.- 2012-13 received from CIT(A)-23, Kol. I conducted local enquiry. I could not locate the company at the above mentioned address at that time. No one could tell about the existence of the aforesaid company. Submitted the report for your information.

Even after approx two years of fling appeals they failed to produce details. Appellant did not provide any papers/submissions, not even balance sheets, profit loss A/c were produced. Even after receiving hearing notices no one appeared and showed a wilful non-compliance. It appears the appellant is diligently and wilfully avoiding appellate proceedings. It seems the appellant is not interested in pursuing the appeal.”

8. Further the Id. CIT(A) noted that even after expiry of two years of filing of the appeal, the assessee has failed to provide any details or written submissions and despite service of notice, no one appeared and, therefore, the Id. CIT(A) held that the assessee/appellant was diligently and willfully avoiding the appellate proceedings. Thereafter, the Id. CIT(A) proceeded to decide the appeal on merits and uphold the assessment order.

9. Being aggrieved by the order of the Id. CIT(A), the assessee has preferred an appeal before the Tribunal. However, as noted above, despite service of notices no one has put up in appearance on behalf of the assessee. After going through the assessment order as well as the impugned order of the Id. CIT(A), we do not find any justification to interfere with orders of the lower authorities. The impugned

orders of the lower authorities are, therefore, upheld and appeal of the assessee is hereby dismissed.

10. In the result, appeal of the assessee is dismissed.

Order pronounced in the Court on 2nd September, 2022 at Kolkata.

Sd/-

**(GIRISH AGRAWAL)
ACCOUNTANT MEMBER**

Kolkata, Dated 02/09/2022

SC S/P

Sd/-

**(SANJAY GARG)
JUDICIAL MEMBER**

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, अधिकरण अपीलीय आयकर , कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata