

THE INCOME TAX APPELLATE TRIBUNAL  
“D” Bench, Mumbai  
Shri B.R. Baskaran (AM) & Shri Sandeep Singh Karhail (JM)

I.T.A. No. 1556/Mum/2020 (A.Y. 2009-10)

M/s. Ricossa Multitrade Pvt. Ltd. 21, Satyam Shopping Centre A-Wingh, 2 <sup>nd</sup> Floor, Ghatkopar Mumbai-400 077.  PAN : AAECR2390B (Appellant)	Vs.	ITO, Ward- 14(3)(1) Aayakar Bhavan M.K. Road Mumbai-400 020.  (Respondent)
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Assessee by	None
Department by	Smt. Mahita Nair
Date of Hearing	26.09.2022
Date of Pronouncement	26.09.2022

O R D E R

Per B.R.Baskaran (AM) :-

The assessee has filed this appeal challenging the order dated 12.2.2020 passed by the learned CIT(A)-22, Mumbai and it relates to A.Y. 2009-10. The assessee is aggrieved by the decision of the learned CIT(A) in confirming the addition of Rs.3.50 crores, being share capital received by the assessee, made by the AO invoking provisions of section 68 of the Act.

2. None appeared on behalf of the assessee and the notices sent by the registered post on several occasions were returned back unserved by the postal department. Subsequently the Revenue was directed to serve the notice. Accordingly the Assessing Officer, vide his letter dated 30.8.2022, has reported that the notice has been served upon the assessee and further the assessee has been informed that the hearing has been fixed on 26.9.2022. However, none appeared on behalf of the assessee today. Hence we proceed to dispose of the appeal ex-parte, without presence of the assessee.

3. We have heard learned DR and perused the record. The facts relating to the above said issue are that the assessee, during the year under consideration, has received a sum of Rs.3.50 crores by issuing 2,80,000 shares at a price of Rs. 125/- per share, which included premium amount of Rs. Rs. 115/- per share. The Assessing Officer took the view that the premium amount collected by the assessee was unjustified, i.e., it was not commensurate with the financial workings of the assessee. He also took the view that the assessee is required to prove the nature and source of cash credit as per section 68 of the Act. The AO held that the assessee has not justified the share premium amount of Rs. 115/- per share. Accordingly, he assessed the entire share capital of Rs. 3.50 crores received by the assessee as its income. The learned CIT(A) also confirmed the same.

4. We have heard learned DR and perused the record. We noticed that the Assessing Officer has assessed share capital amount of Rs. 3.50 crores on the reasoning that the assessee has failed to justify share premium amount of Rs. 115/- per share. We noticed that the Assessing Officer has not examined all the ingredients required to be proved by the assessee with regard to the cash credit. We notice that there are three subscribers to share capital, viz., Padmini Viniyog Pvt. Ltd., Galary Trading Pvt. Ltd. and Adhunik Exim Pvt. Limited. We also noticed that the assessee has contended before the learned CIT(A) that it has filed all the details relating to share applicants before the Assessing Officer. However, we notice that neither the Assessing Officer nor the learned CIT(A) has examined the documents furnished by the assessee in support of the share capital received by it.

5. Under these set of facts, we are of the view that the issue contested in this appeal requires fresh examination at the end of the learned CIT(A) by duly considering various documents furnished by the assessee in support of the share capital received by it from the above said three share applicants. Accordingly, we set aside the order passed by the learned CIT(A) and restore

all the issues to his file for examining the issue afresh. After affording opportunity of being heard to the assessee, the AO may take appropriate decision in accordance with law.

6. In the result, appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 26.09.2022.

Sd/-  
(SANDEEP SINGH KARHAIL)  
JUDICIAL MEMBER

Sd/-  
(B.R. BASKARAN)  
ACCOUNTANT MEMBER

Mumbai; Dated : 26/09/2022

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

BY ORDER,

(Assistant Registrar)  
ITAT, Mumbai

PS