

आयकर अपीलीय अधिकरण, पीठ "A" , कोलकाता
**IN THE INCOME TAX APPELLATE TRIBUNAL
BENCH "A" KOLKATA**

समक्ष : श्री मनीष बोरड, लेखा एवं
श्री संजय शर्मा न्यायिक सदस्य

**Before: Shri Manish Borad, Accountant Member and
Shri Sonjoy Sarma, Judicial Member**

आयकर अपील सं.य/ ITA No.1297/Kol/18 Assessment Year: 2012-13		
Megapix Enclave Pvt. Ltd. 271/1 Chinar Park, Teghoria, Kolkata- 700157	<u>बनाम</u> V/s.	Income Tax Officer Ward 14(3), Aaykar Bhawan Poorva, 110 Shantipally, Kolkata-700 107
PAN: AAHCM6623R		
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent
अपीलार्थी की ओर से/By Appellant		None
प्रत्यर्थी की ओर से/By Respondent		Md. Ghyasuddin, Ld.CIT/DR
सुनवाई की तारीख/Date of Hearing		19-09-2022
घोषणा की तारीख/ Date of Pronouncement		29 -09 -2022

आदेश / O R D E R

PER MANISH BORAD, AM.

This appeal of the assessee for the assessment year 2012-13 is directed against the order dt. 25-10-2016 passed u/s. 250(6) of the Income-tax Act, 1961 [hereinafter, referred to as 'the Act'] by the Id. Commissioner of Income-tax, Appeals [in short, hereafter referred to as 'the 'Id. CIT(A)-5, Kolkata.

2. When the case was called for, none appeared on behalf of assessee. A perusal of file shows that notice of hearing was sent I, therefore, deem it proper to adjudicate the appeal on merits *ex parte* assessee on the basis of material available on record and with the assistance of the Id. DR.

3. The assessee has raised the following grounds of appeal for the AY 2012-13:-

1. That the order of the Ld. Commissioner of Income Tax (A) is bad in law and on facts of the case.
2. That the Ld Commissioner of Income Tax (A) erred in sending all the notices at address other than that stated in Form 35 (The Appeal Memo).
3. That the Ld. Commissioner of Income Tax (A) erred in confirming the view of Ld. Income Tax Officer "no actual business lies in the company".
4. That Ld. Commissioner of Income Tax (A) erred in upholding the action of Ld. Income Tax Officer of adding Rs. 32510000/- as unexplained cash credit u/s 68 without proper opportunities of examining the records.
5. That the appellant craves leave to adduce additional grounds or amend or alter any of the foregoing grounds before or at the time of the Appeal.

4. Brief facts of the case are that the assessee is a private limited company. It is engaged in the business/investment in shares & securities. Income at Rs. 1890/- declaring in return of income was filed on 24.09.2012 for the AY 2012-13. Later on the said return was revised on 08.09.2013 showing income at Rs. 1890/-. Case selected for scrutiny through CASS (Computer Assisted Scrutiny Selection) followed by serving of statutory notices u/s. 143(2) and 142(1) upon the assessee. In response to which, the Id.AR of the assessee company appeared from time to time. Thereafter, the AO proceeded to frame assessment u/s. 143(3) of the Act. On examination of returns and books of account of the assessee, the AO noticed that the assessee company was incorporated on 28.12.2011. The Id. AO found that during the year paid up share capital is Rs.2,57,00,000/- and security premium at Rs. 29,94,00,000/- totalling to Rs.32,51,00,000/- credited/received in the books of account of the assessee from different

parties. The Id. AO issued notice u/s. 133(6) of the Act, details of which is available at page-2 of the AO's order. The Id. AO found that there was no compliance to these notices issued to the parties in respect of serial nos. 1 to 3 and in respect of remaining parties the notices were undelivered. The Id. AO was not satisfied with the genuineness of share capital and share premium/security premium received by the assessee company. He accordingly completed assessment order u/s. 143(3) of the Act making addition u/s. 68 of the Act for unexplained share capital and security premium totalling to Rs. 32, 51,00,000/- and also disallowed Rs. 22,670/- u/s. 14A of the I.T Act, 1961 and Rs.1,303/- u/s. 115JB.

5. Aggrieved, the assessee preferred appeal before the Id. CIT(A) only challenging the impugned addition made u/s. 68 of the Act at Rs. 32,51,10,000/-. During the appellate proceedings the Id. CIT(A) issued notice of hearing twice on 14.06.2016 and 29.08.2016. But both the notices returned back by postal authority with the comment *Not known dt. 18.06.2016/03.09.2016* and assessee remained absent on both the dates of hearing. Therefore, the Id. CIT(A) passed *ex parte* order respectfully following the judgment of the Hon'ble Supreme Court in the case of *H.M Esufali H.M Abdulali* (1973) 90 ITR 271 (SC) dismissing the appeal of assessee.

6. Aggrieved, the assessee is now in appeal before this Tribunal challenging the impugned addition made u/s. 68 of the Act at Rs. 32,51,00,000/-. Apart from filing appeal, the assessee had made no further efforts to file any other documentary evidence or paper book and written submissions in support of its claim.

7. Nobody has appeared on behalf of the assessee. On the other hand, the Id. DR vehemently argued supporting the orders of lower authorities and prayed for confirming the order of Id. CIT(A).

8. We have heard the Id. Departmental Representative and perused the material placed on record before us. The assessee has challenged the finding of the Id. CIT(A) confirming the addition made u/s. 68 of the Act at Rs. 32,51,00,000/- by the Id.AO for unexplained cash credits of share capital and security premium received during the year. We notice that the assessee company incorporated on 28.12.2011 and had offered meagre income of Rs. 1890/- for the AY 2012-13. The assessee company has been able to procure share capital at Rs. 2,57,00,000/- and security premium on this share capital at Rs. 29,94,00,000/- totalling to Rs.32,51,00,000/-. It certainly creates doubt about the genuineness of the alleged transaction as to how a new company with no asset has been able to procure share premium of Rs. 29.94 cr. and share capital of Rs. 2.57 cr. The company having this magnitude of share capital and share/security premium must be having proper business set up. Statutory notice u/s. 143(2) of the Act duly served upon the assessee and when the case of the assessee was selected for scrutiny the assessee's authorised representative time to time appeared before the Id.AO. But the assessee failed to produce the alleged 8 parties who had subscribed to the equity shares of the assessee company. The assessee was asked to explain the cash credits received by it during the year. The assessee failed to file necessary details to explain the source of alleged cash credit and also unable to prove identity, creditworthiness of the cash creditors as well as genuineness of the transaction. The assessee company has miserably failed to explain the source of alleged cash credit. If the assessee had sufficient details to explain the alleged sum, it could have certainly filed

those details at any stage. Consistently escaping from appearing/producing the alleged parties before the Id. AO and the appellate authority(Id.CIT-A) indicates that the assessee has no plausible explanation to explain the source of alleged sum of share capital and security premium and, therefore, the provisions of section 68 of the Act have rightly been invoked by Id. AO and alleged sum is the unaccounted income of assessee, which has been routed in the books through bogus/accommodation entry in the form of share capital and security premium. Therefore, under these facts and circumstances, we find no infirmity in the finding of the Id. CIT(A) confirming the addition of Rs.32,51,00,000/- made u/s. 68 of the Act. Thus, all the grounds of appeal raised by the assessee are dismissed.

परिणामतः निर्धारिती की अपील खारिज की जाती है।

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

आदेश खुले न्यायपीठ में दिनांक 29-09-2022 को उद्घोषित।
The order pronounced in the open Court on 29.09.2022

Sd/-
(SONJOYSARMA)
JUDICIAL MEMBER

Sd/-
(MANISHBORAD)
ACCOUNTANT MEMBER

Dated : 29 -09-2022

**PP/SPS

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

- 1.अपीलार्थी/Appellant/: Megapix Enclave Pvt. Ltd. 271/1 Chinar Park, Teghoria, Kolkata-700157
2. प्रत्यर्थी/Respondent/: Income Tax Officer, Ward 14(3), Aaykar Bhawan Poorva, 110 Shantipally, Kolkata-700 107
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता / DR, ITAT, Kolkata
- 6.गार्डफाइल/Guardfile.

By order/आदेश से, /True Copy/

Assistant Registrar