

आयकर अपीलीय अधिकरण
कोलकाता 'ए' पीठ, कोलकाता में

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'A' BENCH, KOLKATA**

डॉ मनीष बोर्ड, लेखा सदस्य
एवं

श्री संजय शर्मा, न्यायिक सदस्य
के समक्ष

Before

**DR. MANISH BORAD, ACCOUNTANT MEMBER
&**

SONJOY SARMA, JUDICIAL MEMBER

आयकर अपील संख्या: 965/कोल/2018

निर्धारण वर्ष: 2012-13

I.T.A. No.: 965/Kol/2018

Assessment Year: 2012-13

Flowtop Constructions Pvt. Ltd.....Appellant
[PAN: AABCF 8736 G]

Vs.

ITO, Ward-1(1), Kolkata.....Respondent

Appearances by:

None appeared on behalf of the Assessee.

Md. Ghayasuddin, CIT(DR), appeared on behalf of the Revenue.

Date of concluding the hearing : September 19th, 2022

Date of pronouncing the order : September 29th, 2022

आदेश

ORDER

PER SONJOY SARMA, JUDICIAL MEMBER:

This appeal filed by the assessee pertaining to the Assessment Year (in short "AY") 2012-13 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the "Act") by Id. Commissioner of Income-tax(Appeals)-1, Kolkata [in

short ld. "CIT(A)"] dated 28.02.2018 which is arising out of the assessment order framed u/s 143(3)/144 of the Act dated 19.03.2015.

2. The assessee is in appeal before this Tribunal raising the following grounds:

"That the appellant had preferred an appeal before the CIT(A)-1, being aggrieved by an order of Assessing Officer Ward-1(1). The point of contention was the treatment of share capital including share premium obtained by the appellant, which was treated as unexplained cash credit and taxed under the provisions of section 68 of the Income Tax Act, 1961. The case was fixed for hearing on 19.02.2018 on which the appellant failed to appear due to unintentional inadvertence. The Commissioner of Income Tax (A) chose to dispose the appeal ex-parte due to this failure on the part of the assessee and dismissed the appeal without examining the facts and circumstances of the case. Under the circumstances, the appellant has no option but to pray before your kind self.

The appellant seeks leave to present the detailed paper book before the date of hearing."

3. When the case was called for, none appeared on behalf of the assessee. Perusal of the records shows that the case has been listed for hearing first time on 10.08.2022 and thereafter none appeared on 10.08.2022 and today i.e. 19.09.2022. Notices have also been sent through registered post on multiple occasions but it ended up in a futile exercise. It seems that the assessee is either not interested in pursuing the appeal or it has no material to place before this Tribunal in support of its grounds. We, therefore, decide to adjudicate the issue raised in the appeal on merits of the case.

4. Brief facts of the case are that the assessee is a private limited company and loss of Rs. 14,005/- declared in the return

of income for AY 2012-13 filed on 12.03.2015. After the case being selected for scrutiny assessment, followed by serving of notices u/s 143(2) & 142(1) of the Act, assessment u/s 143(3)/144 of the Act was framed on 19.03.2015 assessing income at Rs. 10,04,50,000/- arrived at after making addition amounting to Rs. 10,04,64,000/-.

5. The assessee challenged this addition before ld. CIT(A) but appeal of the assessee was dismissed.

6. Now, the assessee is in appeal before this Tribunal challenging the issue of disallowance of share capital including share premium obtained by the assessee which was treated as unexplained cash credit and taxed under the provision of section 68 of the Income Tax Act, 1961.

7. Ld. D/R vehemently argued supporting the order of ld. CIT(A).

8. We have heard ld. D/R and carefully perused the records placed before us.

9. As regards ground of appeal which relates to the addition for unexplained cash credit u/s 68 of the Act, we find that the assessee received share capital & share premium of Rs. 10,04,50,000/-. The assessee was asked to prove the identity and creditworthiness of the share capital & share premium and the genuineness of the transaction. But the assessee failed to furnish any such documentary evidence in the form of confirmation letters, bank statement, identity details, income tax returns. Ultimately, the AO framed the assessment u/s 144/143(3) of the

Act, ld. CIT(A) after examining the issue upheld the addition made by ld. AO.

10. We, therefore, under the given facts and circumstances of the case, find that the assessee has not produced any documentary evidence whatsoever to explain the source of share capital & share premium of Rs. 10,04,50,000/- and, therefore, ld. AO has rightly invoked the provision of Section 68 of the Act. Thus, no interference is called for in the finding of ld. CIT(A). Therefore, ground raised by the assessee is dismissed.

11. In the result, the appeal filed by the assessee is dismissed.

Kolkata, the 29th September, 2022.

Sd/-

[MANISH BORAD]
Accountant Member

Sd/-

[SONJOY SARMA]
Judicial Member

Dated:29.09.2022

Biswajit, Sr. P.S.

Copy of the order forwarded to:

- 1. Flowtop Constructions Pvt. Ltd., 10/B, B.B. Ganguly Street, Kolkata – 700 012.**
- 2. ITO, Ward-1(1), Kolkata**
3. CIT(A), Kolkata.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata