

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'सी', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA

श्री संजय गर्ग, न्यायिक सदस्य एवं श्री गिरीश अग्रवाल, लेखा सदस्य के समक्ष
Before Shri Sanjay Garg, Judicial Member and Shri Girish Agrawal, Accountant Member

I.T.A. No.94/Kol/2021
Assessment Year: 2010-11

Risorgimento Industrial Co. Ltd.....Appellant
8, Ganesh Chandra Avenue,
1st Floor, Kolkata-700013.
[PAN: AABCR4382A]

vs.

ITO, Ward-12(2), Kolkata.....Respondent

Appearances by:

Shri S.P. Dutta and Sukanya Dutta, AR, appeared on behalf of the appellant.
Smt. Ranu Biswas, Addl. CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : September 15, 2022

Date of pronouncing the order : October 12, 2022

आदेश / ORDER

संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 26.11.2019 of the Commissioner of Income Tax (Appeals)-4, Kolkata [hereinafter as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

The assessee in this appeal has taken the following grounds of appeal:

"1. That on the facts and circumstances of case the A.O. was not justified in completing the assessment at Total Income of Rs.2,69,64,460 by making addition of Rs.2,68,10,000 and in completing the assessment U/s. 147. That on the facts and circumstances of the case the Assessing Officer was not justified for addition of Rs.2,68,10,000 on account of Unexplained Investment into Equity Shares without considering the fact and submissions, Hence addition on account of Unexplained Investment U/s. 69 is bad in law. That the appellant crave leave to add, alter or amend the Grounds of Appeal at or before the time of hearing."

2. At the outset, the Id. Counsel for the assessee inviting our attention to the assessment order dated 20.12.2017 and impugned order of the CIT(A) dated 26.11.2019 has submitted that the orders of both the lower authorities are ex parte orders. The Id. Counsel has further submitted that in this case, the assessment was reopened by the Assessing Officer on the basis of information received from ACIT, Central Circle 1(1), Chennai that the assessee company during the assessment year under consideration i.e. assessment year 2010-11, had made transaction in respect of investment in shares to the tune of Rs.90 lakhs with Chennai Recycling and Trading Co. Ltd. That the assessee company had filed the submissions before the Assessing Officer denying that no such investment was made by the assessee company during financial year 2009-10 relevant to assessment year 2010-11. That however the Assessing Officer without examining the accounts, made the impugned additions as unexplained investment in equity shares. The Id. Counsel has submitted that the matter may be restored to the file of the CIT(A) so that the assessee may demonstrate before the CIT(A) that no such investments were made by the assessee company during the year. He has submitted that the assessee could not appear before the CIT(A) as no notice of hearing was received by the assessee.

3. The Id. DR, on the other hand, has relied upon the findings of the lower authorities.

4. We have considered the rival contentions. We find that the impugned order of the CIT(A) is an ex parte order. We further note that the assessee has categorically taken a stand that it had not made any investment during the year under consideration. Considering the above facts, in our view, the interest of justice demands that the assessee may be given an opportunity to present its case before the CIT(A). In view of this, the impugned order of the CIT(A) is set aside and the matter is restored to the file of the CIT(A) for decision afresh in accordance with law. Needless to say that the Id. CIT(A) will give proper opportunity to the assessee to present its case. With the above observations, the appeal of the assessee is treated as allowed for statistical purposes.

5. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Kolkata, the 12th October, 2022.

Sd/-
[गिरीश अग्रवाल /**Girish Agrawal**]
लेखा सदस्य /**Accountant Member**

Sd/-
[संजय गर्ग /**Sanjay Garg**]
न्यायिक सदस्य /**Judicial Member**

Dated: 12.10.2022.

RS

Copy of the order forwarded to:

1. Risorgimento Industrial Co. Ltd
2. ITO, Ward-12(2), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches