

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

**Before Shri Rajpal Yadav, Vice-President (KZ)
&
Shri Rajesh Kumar, Accountant Member**

**I.T.A. No. 409/KOL/2019
Assessment Year: 2012-2013**

Induct Distributors (P) Limited,.....Appellant
New-142, 127, Swamiji Sarani, Kolkata-700048
[PAN: AACCI4966Q]
-Vs.-

Income Tax Officer,.....Respondent
Ward-10(3), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700069

Appearances by:

N o n e, appeared on behalf of the assessee
Shri Amal Kamat, CIT (DR), appeared on behalf of the Revenue

Date of concluding the hearing : November 03, 2022
Date of pronouncing the order : November 04, 2022

O R D E R

Per Rajpal Yadav, Vice-President (KZ):-

The assessee is in appeal before the Tribunal against the order of Id. Commissioner of Income Tax (Appeals)-4, Kolkata dated 28.12.2018 passed for A.Y. 2012-13.

2. The assessee has taken eight grounds of appeal. However, the grievances of the assessee can be summarized in two folds:-

(a) The Id. CIT(Appeals) has erred in dismissing the appeal of the assessee *ex-parte in limine* without adjudicating the issues on merit;

(b) The Id. CIT(Appeals) has erred in confirming the addition of Rs.38,42,08,500/-.

3. In other grounds, the assessee has raised peripheral arguments and also reserved the rights to produce additional evidence under Rule 29 of Income Tax Appellate Tribunal Rules, 1963.

4. In response to the notices, no one has appeared on behalf of the assessee. With the assistance of Id. CIT(DR), we have gone through the record carefully and proceed to decide this appeal *ex-parte qua* the assessee.

5. Brief facts of the case are that the assessee has filed its return of income on 30.09.2012 declaring total income of Rs.1,281/-. The case of the assessee was selected for scrutiny assessment and a notice under section 143(2) was issued and served upon the assessee. In response to the notice, Shri K.V. Jaiswal, FCA & A.R. of the assessee appeared before the Id. Assessing Officer. The Id. Assessing Officer has observed that the assessee-company has raised share capital of Rs.38,41,08,500/- by issue of 2,07,28,217 equity shares at a total premium of Rs.36,33,80,283/- aggregating to Rs.38,41,08,500/- and the book value per share of the assessee-company as on 31.03.2012 is Rs.18.45. According to the assessee, these shares were issued at a premium on commercial decision based on the future prospects and are not only beneficial to the Company but to its shareholders also in long run, as borrowing can be avoided as a conservative business practice. It has submitted copy of the Bank statement showing the transactions, audited accounts for the financial year 2011-12, Memorandum of Association containing the Certificate of Incorporation, Corporate Identification Number exhibiting the identity of the subscribers, acknowledgment showing filing of the income-tax return alongwith Permanent Account Number. However, we find that Id. Assessing Officer has directed production of Directors of the assessee-company as well as investor company. He issued summons under section 131 of the Income Tax Act, but none appeared. The Id.

Assessing Officer thereafter observed that it is a paper company without any real worth or without doing any specific business. Hence ld. Assessing Officer rejected the explanation of the assessee and confirmed the addition.

6. Dissatisfied with the assessment order, the assessee went in appeal before the ld. CIT(Appeals). It has filed a statement of facts running into six pages. This statement of facts contains arguments in one page and thereafter from page no. 2 upto the end contains citations of more than 35 decisions. The ld. 1st Appellate Authority has not gone through this statement of facts, rather dismissed the appeal of the assessee for want of prosecution.

7. There is no dispute with regard to proposition of law that subsection (6) of section 250 mandates the ld. CIT(Appeals) to decide the appeal on merits after determining the points in dispute. The ld. CIT(Appeals) is required to record the reasons on those points. Therefore, an irregularity has crept in the order of the ld. CIT(Appeals), which is not sustainable. However, we have gone through the record carefully. We rectify this irregularity by taking up the issues on merit. The simple reason for this is that before the ld. Assessing Officer, the assessee did not file anything. It has only narrated this aspect in the statement of facts. We took cognizance of the statement of facts filed by the assessee before the ld. 1st Appellate Authority, which is available on our record. The assessee did not file a single document before us. Conduct of the assessee before us is such that is existing only on papers. It is a shell company. It has not given any justification for collecting such a huge amount on account of capital receipt from sale of shares. Its returned income is only Rs.1,281/-. It has not filed the copy of the balance-sheet showing the net assets available to it. It has not disclosed what is the nature of its business and what are the operating tools possessed by it. Therefore, in this situation, we do not deem it necessary to unnecessarily keep

alive the litigation by remitting it to Id. CIT(Appeals) and getting some incomplete finding, because the assessee is not a serious business concern. Accordingly this appeal of the assessee is dismissed on merit after considering all the materials available on the record, more particularly, the statement of facts filed before the Id. CIT(Appeals).

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

Order pronounced in the open Court on November 04, 2022.

Sd/-

Sd/-

(Rajesh Kumar)
Accountant Member

(Rajpal Yadav)
Vice-President (KZ)

Kolkata, the 4th day of November, 2022

*Copies to : (1) Induct Distributors (P) Limited,
New-142, 127, Swamiji Sarani, Kolkata-700048*

*(2) Income Tax Officer,
Ward-10(3), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square, Kolkata-700069*

*(3) Commissioner of Income Tax (Appeals)-4, Kolkata;
(4) Commissioner of Income Tax-----, Kolkata
(5) The Departmental Representative
(6) Guard File*

TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.