

**आयकर अपीलीय अधिकरण, पीठ "C" , कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**BENCH "C" 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.2492Kol/2018**  
Assessment Year: 2012-13

<b>M/s. JSM Properties Pvt. Ltd.</b> 7/1A Grant Lane, 4 <sup>th</sup> Fl., Room No.4K, Kolkata-700 001	<u>बनाम</u> V/s.	<b>Income Tax Officer</b> <b>Ward 1(2), Kolkata</b> Aaykar Bhawan P-7 Chowringhee Sq., Kolkata-700 069.
<b>PAN: AABCO 5998B</b>		
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent
अपीलार्थी की ओर से/By Appellant		None
प्रत्यर्थी की ओर से/By Respondent		Shri Ranu Biswas, Addl. CIT, Id. Sr.DR
सुनवाई की तारीख/Date of Hearing		23-11-2022
घोषणा की तारीख/ Date of Pronouncement		29 -11 -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. 30-08-2018 passed by the Id. Commissioner of Income-tax, Appeals [ in short, hereafter referred to as 'the 'Id. CIT(A)-1, Kolkata.

2. Registry has informed that the appeal is time barred by 02 days. Though the assessee has not filed condonation petition, but looking to the

facts of the case, we condone the delay of 02 days in filing this appeal and admit the appeal for adjudication on merits.

3. When the case was called for, none appeared on behalf of assessee. A perusal of file shows that the case of assessee was fixed on various occasions. It seems that the assessee is not interested to prosecute its appeal. We, therefore, deem it fit and 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.

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

1. For that on the facts of the case the order passed by the Ld. CIT(A)1, Kolkata on 30/08/2018 which was received by the appellant on 28/09/2018 is completely arbitrary, unjustified and illegal.

2. For that on the facts of the case, the Id. CIT(A)-1, Kolkata was wrong in not considering the merit of the case, therefore, the order passed by the Id. CIT(A)-1, Kolkata is completely arbitrary, unjustified and bad in law.

3. For that on the facts of the case the order passed by the Id. CIT(A)-1, Kolkata confirmed the addition of Rs.1,10,20,000/- as unexplained cash credit which was initiated by the Id. AO during the course of assessment proceedings without sufficient time to the appellant u/s. 68 of the I.T Act, 1961.

4. For that the appellant reserves the right to adduce any further ground or grounds, if necessary, at or before the hearing of the appeal.

5. Perusal of records shows that the assessee has challenged the finding of the Id. CIT(A) confirming the addition made u/s. 68 of the Act at Rs. 1,10,20,000/-.

6. Brief facts of the case are that the assessee is a private limited company. Income at Rs. Nil declaring in return of income was filed on 22.12.2012 for the AY 2012-13. 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 for submissions of requisite documents. But there was no compliance on the part of the assessee. On perusal of records, the Id. AO found that sum of Rs. 5,42,100/- and Rs. 1,04,79,000/- totalling to Rs.1,10,21,100/- were credited/received in the books of account of the assessee from different parties. The Id. AO issued notice u/s. 131 of the Act to the shareholders and directors of the assessee company for verification of said transaction, but there were no compliances. 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.1,10,20,000/-.

7. Aggrieved, the assessee preferred appeal before the Id. CIT(A) only challenging the impugned addition made u/s. 68 of the Act at Rs. 1,10,20,000/-. During the appellate proceedings the Id. CIT(A) issued notice of hearing thrice on 25.07.2018, 20.08.2018 and finally on 29.08.2018. But on such appointed dates neither any one attended nor any submission in support of its claim/grounds was filed before him. The assessee remained absent on the said 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.

8. Aggrieved, the assessee is now in appeal before this Tribunal challenging the impugned addition made u/s. 68 of the Act at Rs. 1,10,20,000/-. 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.

9. 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).

10. 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. 1,10,20,000/- by the Id.AO for unexplained cash credits of share capital and share premium received during the year. We notice that the assessee company had offered Nil income for the AY 2012-13. The assessee company has been able to procure share capital at Rs. 5,41,000/- and share premium on this share capital at Rs. 1,04,79,000/- totalling to Rs.1,10,21,110/- It certainly creates doubt about the genuineness of the alleged transaction as to how such company with no asset base and poor financials has been able to procure share capital/share premium totalling to Rs.1,10,20,000/-. When the case of the assessee was selected for scrutiny nobody has appeared either before the Id.AO, Id. CIT(A) even before us. The assessee failed to produce the alleged 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 rightly treated as 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.1,10,20,000/- 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।

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

आदेश खुले न्यायपीठ में दिनांक 29-11-2022 को उद्घोषित।

Sd/-

Sd/-

(SONJOYSARMA)  
JUDICIAL MEMBER

(MANISHBORAD)  
ACCOUNTANT MEMBER

Dated :29 -11-2022

\*\*PP/SPS

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

1.अपीलार्थी/Appellant/: M/s.JSM Properties Pvt. Ltd/

7/1A Grant Lane, 4<sup>th</sup> Fl.,Room No.4K, Kolkata-700 001

2. प्रत्यर्थी/Respondent/: Income Tax Officer, Ward 1(2), Kolkata

Aaykar Bhawan, P-7 Chowringhee Sq., Kolkata-700 069.

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  
ITAT, Kolkata