

। आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता ।
IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, KOLKATA

BEFORE SHRI RAJPAL YADAV, HON'BLE VICE PRESIDENT
AND SHRI GIRISH AGRAWAL, HON'BLE ACCOUNTANT MEMBER

I.T.A. No. 583/Kol/2018
Assessment Year: 2012-13

Ecospace Suppliers Private Limited 156, Cotton Street 3 rd Floor Kolkata - 700007 PAN : AACCE9872D	Vs	I.T.O., Ward - 9(2), Kolkata
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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Assessee by :	None
Revenue by :	Shri G. Hukugha Sema, CIT D/R

सुनवाई की तारीख/Date of Hearing : 15/12/2022
घोषणा की तारीख /Date of Pronouncement: 16/12/2022

आदेश/ORDER

PER SHRI RAJPAL YADAV, VICE PRESIDENT:

The present appeal is directed at the instance of the assessee against the order of the Learned Commissioner of Income Tax (Appeal) - 7, Kolkata (hereinafter the "ld. CIT(A)") dt. 21/02/2018, passed u/s 250 of the Income Tax Act, 1961 ("the Act"), for Assessment Year 2012-13.

2. The solitary grievance of the assessee is that the ld. CIT(A) has erred in confirming the addition of Rs.13,78,00,000/-, which was added by the Assessing Officer with the aid of Section 68 of the Act.

3. Brief facts of the case are that the assessee filed its return of income on 15/01/2013 declaring total income as "NIL". Its case was selected for scrutiny assessment and notice u/s 143(2) of the Act was issued and served upon the assessee. On scrutiny of the accounts, it revealed to the Assessing Officer that the assessee has received fresh share application money of Rs.13,78,00,000/-. In response to the notice of hearing u/s 142(1) of the Act,

no one appeared before the Assessing Officer nor any detail was submitted. Hence, an *ex-parte* order based on the best judgment of the Assessing Officer was passed making addition of this amount.

4. Before the Id. First Appellate Authority, no one appeared on behalf of the assessee and the Id. CIT(A) has dismissed the appeal for want of prosecution.

5. In response to the notice of hearing no one has come present on behalf of the assessee. Sub-section (6) of Section 250 of the Act, contemplates that the Id. CIT(A) would state the points of disputes and thereafter record reasons on these points. In other words, appeal of the assessee ought to have been disposed off on merits instead of dismissal for want of prosecution. After apprising ourselves with the conduct of the assessee regarding non-submission of any material before the Assessing Officer or before the Id. CIT(A), we tried to take the exercise ourselves for deciding the appeal on merits by treating it as if it is a first appeal but we fail to appreciate the true character of the transactions. Even the assessee did not file anything before any of the authorities. It merely completed the formality of filing its appeal. In other words, it has not been prosecuting the litigation.

6. We have perused the statement on facts filed before the Id. First Appellate Authority along with Form No. 35 but, even in this statement of facts, the assessee has simply pointed out the details of the companies who are share applicants have been submitted before the Registrar of Companies, Kolkata and such details can be retrieved from there. In our opinion, the assessee failed to discharge the onus put upon it by virtue of Section 68 of the Act where it is required to establish the identity of the share applicants, their creditworthiness and genuineness of the transactions.

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It failed to fulfill these conditions. Therefore, we do not find any merit in this appeal of the assessee and accordingly, it is dismissed.

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

Order pronounced in the Court on 16th December, 2022 at Kolkata.

Sd/-

**(GIRISH AGRAWAL)
ACCOUNTANT MEMBER**

Kolkata, Dated 16/12/2022

**SC S.P.S*

Sd/-

**(RAJPAL YADAV)
VICE-PRESIDENT**

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, अधिकरण अपीलीय आयकर , कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata