

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
KOLKATA BENCH "C", KOLKATA**

**BEFORE SHRI SONJOY SARMA, HON'BLE JUDICIAL MEMBER  
AND SHRI GIRISH AGRAWAL, HON'BLE ACCOUNTANT MEMBER**

**ITA No.215/Kol/2020  
Assessment Year: 2012-13**

M/s. Sankatmochan Dealcom Pvt. Ltd. 8, Amartalla Street, Kolkata-700001. PAN: AAPCS 9323 Q (Appellant)	Vs.	ITO, Ward-5(1), Kolkata (Respondent)
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**Present for:**

Assessee by : Shri Manish Tiwari, FCA  
Revenue by : Smt. Ranu Biswas, Adtl. CIT, DR

Date of Hearing : 31.01.2023  
Date of Pronouncement : 02.02.2023

**ORDER**

**PER SONJOY SARMA, JM:**

This appeal filed by the assessee pertaining to A.Y. 2012-13 is directed against the order of Id. CIT(A) dated 02.12.2019 which is arising out of assessment order framed u/s 143(3) read with section 144 of the I.T. Act dated 26.03.2015 by ITO, Ward-5(1), Kolkata. The assessee has taken the following grounds of appeal:

*"i. (a) That on the facts and in the circumstances of the case, Id. CIT(A) has erred in confirming the addition of Rs. 1,37,00,000/- received as share application money u/s 68 on misconception and without properly appreciating the written explanation by assessee*

*(b) That on the facts and in the circumstances of the case, Id. CIT(A) has erred in confirming the addition of Rs. 1,37,00,000/- when all the ingredients like identity, genuineness and creditworthiness of share applicants were submitted (refer para 5 of order)*

*(c) That on the facts and in the circumstances of the case, Id. CIT(A) has erred in confirming the addition of Rs. 1,37,00,000/- saying 'incomplete compliance' by assessee.*

*ii. That on the facts & in the circumstances of the case, Id. CIT(A) has erred in confirming the disallowance of Rs. 11,000/- u/s 14A read with Rule 8D when there was no exempt income.*

*iii. That the appellant craves leave to add, alter, adduce or amend any ground(s) on or before the date of hearing of the appeal.”*

2. At the outset, ld. counsel for the assessee requested that since the assessee did not get any opportunity to file relevant documents as well as submissions before the ld. assessing officer and ld. CIT(A) during the course of hearing before the authorities below. Therefore, in such circumstances one more opportunity should be given to the assessee and the issue raised in the instant appeal may be set aside to the file of ld. CIT(A). On the other hand, ld. DR vehemently argued in support of the order passed by the authorities below.

3. We after hearing both the parties under the given facts and circumstances of the case are of the considered view that since the order of the ld. CIT(A) as well as ld. AO proceeded ex-parte against the assessee and necessary documents were not filed by the assessee before the authorities below. We in the interest of justice set aside the impugned order and remit it back to the ld. CIT(A) for deciding the issue raised before us by way of a speaking order. We also direct the assessee to submit the documents to advance its arguments before the authorities below at the time of hearing and doing so, ld. CIT(A) would call a remand report from the ld. AO on such documents filed by the assessee.

4. We also direct the assessee to remain vigilant in receiving notices of hearing from ld. CIT(A) and should not request for any further adjournment unless otherwise required for reasonable cause. Needless to mention that the assessee should be given proper opportunity of being heard.

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

**Order pronounced in the open court on 02.02.2023.**

**Sd/-**  
**(GIRISH AGRAWAL)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(SONJOY SARMA)**  
**JUDICIAL MEMBER**

Copy to:

1. The Appellant: M/s. Sankatmochan Dealcom Pvt. Ltd.
2. The Respondent: ITO, Ward-5(1), Kolkata
3. The CIT, Concerned, Kolkata
4. The CIT (A) Concerned, Kolkata
5. The DR Concerned Bench

//True Copy//

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata