

IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH KOLKATA

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER
AND SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.688/Kol/2019
Assessment Year: 2012-13**

Timely Commercial P. Ltd. C/o S. N. Ghosh & Associates, Advocates, 2, Garstin Place, 2 nd Floor, Suite No. 203, Off Hare Street, Kolkata-700 001. (PAN: AADCT 7219 E)	Vs.	Income-tax Officer, Ward- 4(1), Kolkata.
(Appellant)		(Respondent)

Present for:

Appellant by : N o n e

Respondent by : Shri Abhijit Kundu, CIT, DR

Date of Hearing : 20.06.2023

Date of Pronouncement : 23.06.2023

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of Ld. CIT(A)-2, Kolkata vide Appeal No. 655/CIT(A)-2/15-16 dated 19.07.2017 passed against the assessment order by ITO, Ward-4(1), Kolkata u/s.144 of the Income-tax Act, 1961 (hereinafter referred to as the “Act”), dated 12.03.2015 for AY 2012-13.

2. There is a delay of 565 days in filing the present appeal. The impugned order by Ld. CIT(A) is dated 19.07.2017 which is claimed to have been received on 05.02.2019 as mentioned in Form 36. There is no petition for condonation of delay furnished by the assessee to explain the delay of 565 days in filing the present appeal as well as to

explain the lapse of time in respect of passing of order by the Ld. CIT(A) and receipt thereof. Assessee has filed Form 36 before the Tribunal on 05.04.2019. Also, before us none represented the assessee. In the past, this matter has been listed on several occasions and on certain occasions it was attended by either Advocate Shri Somnath Ghosh or his office staff, seeking adjournments. On one of the occasions, adjournment was sought to file paper book but no such paper book has been filed till the last hearing. It is also noted that in the last hearing fixed on 27.03.2023, none appeared to represent the assessee. On that date, the matter was adjourned to 20.06.2023 on which also none appeared to represent the assessee. Notices have not been returned unserved. We also noted that the appeal is of the year 2019. Considering the overall factual matrix, we find it proper to take it up for adjudication ex parte qua the assessee with the assistance of Ld. CIT, DR, based on material available on record.

3. The impugned assessment order is dated 12.03.2015, passed u/s. 144 of the Act. From the said order, we note that assessee filed its return of income on 29.09.2012, reporting total income of Rs.14,020/-. Case was selected for scrutiny assessment for the reason "large share premium received". Ld. AO noted that assessee has raised share capital including share premium of Rs.18,98,07,000/- and called for details and explanation. Ld. AO also issued notice u/s. 131 on the assessee for personal attendance of the Principal Officer/Director of the assessee as well as the investors to establish the identity and creditworthiness of the investors and genuineness of the transactions, undertaken by them. Since compliance was not made to the satisfaction of Ld. AO, addition was made in this respect and assessment was completed u/s. 144 of the Act. Aggrieved, assessee went in appeal before the Ld. CIT(A).

3.1. During the first appellate proceeding, e-notices were issued for hearing the matter, the details of hearings fixed by the Ld. CIT(A) along with remarks is tabulated as under:

Date of Notice	Date of Hearing	Remarks
06.09.2016	23.09.2016	<ul style="list-style-type: none"> The Notice was come back with remarks "No such address in this address, hence receiver refused".
20.10.2016	30.11.2016	<ul style="list-style-type: none"> As per record non-appeared nor any adjournment was filed / available on record.
13.12.2016	26.12.2016	<ul style="list-style-type: none"> As per record non-appeared nor any adjournment was filed / available on record.
06.02.2017	02.03.2017	<ul style="list-style-type: none"> The Notice was served through notice server on 20.02.2017. The AR filed an adjournment letter dated 06.03.2017 and accordingly the case was adjourned for 14.07.2017. It was mentioned that it is last adjournment
	14.07.2017	<ul style="list-style-type: none"> As per record non-appeared nor any adjournment was filed / available on record

4. Since nothing additional was submitted nor anything was represented before the Ld. CIT(A), appeal was dismissed. Aggrieved, assessee is in appeal before the Tribunal.

5. Before us also, as already noted above, we find that conduct of the assessee is evidently casual as there is a delay of 565 days in filing the present appeal which is not backed up by any petition for condonation of delay. Also, there is a huge gap between the date of order of Ld. CIT(A) and its receipt by the assessee as noted above. At all the stages, right from Ld. AO to Ld. CIT(A) and now before us, there has not been any representation by the assessee or its authorised representative. It is important to note that the assessee is a legal entity which must be having all the para-pharnelia to meet the

regulatory and statutory compliance requirement, more so, when assessee itself is pursuing the litigation before various authorities. In the present case before us, conduct of the assessee as observed above persuades us to uphold the addition made by the Ld. AO. Accordingly, grounds taken by the assessee challenging the addition of Rs.18,98,01,000/- on account of share application money along with premium are dismissed.

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

Order pronounced in the open court on 23rd June, 2023.

Sd/-

(Sanjay Garg)
Judicial Member

Sd/-

(Girish Agrawal)
Accountant Member

Dated: 23rd June, 2023

JD, Sr. P.S.

Copy to:

1. The Appellant:
 2. The Respondent:.
 3. CIT(A)-2, Kolkata
 4. CIT,
 5. DR, ITAT, Kolkata Bench, Kolkata
- //True Copy//

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata